CHAPTER - 6

METHODS OF DISPUTES SETTLEMENT

1. MEASURES FOR PREVENTION OF DISPUTES
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PREVENTION AND SETTLEMENT OF DISPUTES

Industrial peace is of vital importance for increasing industrial production and for securing economic prosperity. Industrial unrest disturbs the tranquility of the country and benefits nobody. The avoidance of conflict between employer and employee which results in work stoppage is, therefore, of utmost significance. If despite best efforts, any dispute is likely to occur or actually occurs, an elaborate machinery is needed to bring about its amicable settlement.

In the production process there are various points where a conflict of interest between labour and management arises. The conflict later on develops into a dispute and the production process itself gets disturbed. The causes of strikes in India are partly psychological, partly political but predominantly economic, low wages or wage cuts, irrespective of rising prices, intolerable conditions of work etc., have provoked a number of strikes in this country. Besides undeserved punishments, mass discharges, assaults, abuses and misbehaviours have also led to several strikes. Other important causes of strikes are the absence of adequate machinery for collective bargaining, the absence of close contact and understanding between employers and workers and in some cases, the utter disregard of the human factor by employees. In this dispute, the worker’s side is represented by the trade unions and the employer’s side whether in a public or private sector, is represented by the management of the undertaking. These two institutions developed in course of time along with the mechanisation of production process. When a dispute arises, it is natural that every party to the dispute feels that its contentions are justified and reasonable and that the dispute should be settled in its favour. As a result of voluntary efforts the system of collective bargaining, has been evolved. The Government intervention in the prevention and settlement of such disputes comes through statutory measures.

The existing arrangements for the prevention and settlement of industrial disputes may be said to consist of—

1. Legislative measures, and 2. Other measures or voluntary arrangements.
The former is covered by the Industrial Disputes Act of 1947 and certain similar State enactment. These measures provide two types of machinery.

1. One is for the **prevention of disputes** and it includes Works Committee and Joint Management Committees at the undertaking level or bi-partite bodies. At the industry level or tri-partite bodies, there are Wage Boards and Industrial Committees and at the State level, there are Labour Advisory Boards. At the National level, there are Indian Labour Conferences and the Standing Labour Committees, etc. Measures like appointment of welfare officers, adoption of the Code of Discipline, Standing Orders, Code of Conduct and a well-defined Grievance procedure also help in preventing industrial disputes.

2. The other is for **settlement of industrial disputes** and it consists of Conciliation Officers and Boards, Courts of inquiry, Voluntary Arbitration and Adjudication by Labour Courts or Tribunals.

**PREVENTIVE METHODS**

As mentioned above preventive methods are as follows –

**AT THE UNDERTAKING LEVEL**

A. **THE WORKS COMMITTEES** – Section 3 (I) (ii) of the Industrial Disputes Act, 1947 provides for the setting up of the Works Committees consisting of equal representatives of management and employees in every undertaking employing 100 or more workers, to “promote measures for securing and preserving amity and good relations between the employers and the workmen and to that end, to comment upon matters of their interests or concern and endeavour to compose any material differences of opinion in respect of such matters.” The usefulness of Works Committee, as a channel for joint consultation and the need for strengthening and promoting this institution has been amply stressed in the labour policy statements in the successive Five Year Plans. Under the legal requirements and encouragement given by government.

All units under study have set up Works Committee but in some units it is designated as Production Committee.
The main topics discussed in the meetings of Works Committees are generally –
1. Conditions of work, such as ventilation, lighting, temperature and sanitation, including latrines and urinals.
2. Amenities such as drinking water, canteens, dining rooms, creches, rest-rooms, medical and health services
3. Safety and accident prevention, prevention of occupational diseases and protective equipment
4. Adjustment of festival and national holidays
5. Administration of welfare and fine funds
6. Educational and Recreational facilities, such as libraries, reading rooms, cinema shows, sports and games, picnic parties, community welfare and celebrations
7. Promotion of thrift and savings
8. Implementation and review of decisions arrived at meeting of Works Committees.

During investigation it was found that many Works Committees did not function at all, for they exist only on paper. They neither met at regular intervals nor discuss matters of real importance. It was also observed that committees did not prove effective. As the resolution passed in the meetings of the Works Committee have no legal bindings, the employers were found to be non-serious in implementing their decisions.

The following measures may make the Works Committees more effective –
1. Development of more responsive attitude among the management
2. Adequate support from unions
3. Proper appreciation of the scope and functions of the Works Committees by the management and labour
4. Whole-hearted implementation of the recommendations of the Works Committees
5. Development of a strong and stable trade union
6. Implementation of the decisions of the Works Committees in all respect and in a reasonable time.

The Works Committees must work on the basis of mutual trust and co-operation. Brown has rightly observed, "Unless the atmosphere in the factory is good and a certain degree of mutual
respect already exists, such committees are likely to prove dreary sessions during which the worker’s representatives rack their minds to produce all sorts of petty complaints but never get down to any of the more serious ones.”\(^1\)

Both the labour and the management must adopt the policy of “give and take”. Only then with this innovation bring about amity and goodwill, besides accelerating industrial production.\(^2\)

**B. JOINT MANAGEMENT COMMITTEES**

Second in the line of joint consultation is the joint management committees. The origin of joint management committee is from the Industrial Policy Resolution (April 1956), which stated that “In a socialist democracy, labour is a partner in the common task of development and should participate in it with enthusiasm. There should be joint consultation, workers and technicians should, wherever, possible, be associated progressively in management.

The Joint Management Committees endeavour to –

1. Improve the working and living conditions of the employees,
2. Improve productivity,
3. Encourage suggestions from employees,
4. Assist in administration of laws and agreements,
5. To serve employees as an authentic channel of communication between the management and the employees and
6. Create a live sense of participation in the employees.

During survey it is observed that Joint Management Committees does not exist in all the units under study. Those employers who already have a system of “consultation with” their workers, through recognised trade union or Works Committee, find Joint Management Committees in its present form superfluous and useless. Management is generally adverse to have a multiplicity of


\(^2\) Cole and Meller, Worker’s Control and Self-Government, page -16.
joint bodies in the units. Further, existence of a number of joint bodies (like works committees, production committees, canteen committees, safety committees etc.) have caused confusion, duplication of efforts and waste of time, energy and money. The lack of interest of the trade union leaders in the activities of the joint management committee is also one of the reason for non-existence of this body.

They may be made really useful only when—
1. Both parties develop mutual faith in the bonafides of each other
2. Rights and claims of parties are given full recognition
3. A strong trade union is developed, which understands the virtue of unity and self-reliance so that it may effectively take part in the deliberations of the Joint Management Committees.
4. Genuine co-operation of the parties is there to implement the decisions without delay
5. Workers are educated.

C. OTHER BODIES

Besides the above two machineries, certain other bodies have also been set up, such as—

A. PRODUCTION COMMITTEE — With a view to solicit active co-operation of workers for increasing production, in 6 units (43%) viz., Asea Brown Boveri, Clutch Auto, Eicher tractors, Sunbeam Casting, Thomson Press and Usha India, Production Committee has been set up. It is a bi-partite body which has been established in accordance with Industrial Truce Resolution of 1962. This committee helps in boosting up production by suggesting better methods and assessing fair work load for the workers. In 4 units viz., Atlas cycle, Bata India, K.G. Khosla and Usha Telehoist such work is dealt by the works committee.

B. CANTEEN COMMITTEE — All units have a bi-partite canteen committee except Polar industries. This committee helps in management of canteen services. Like works committee these committees too have failed in rendering any good to workers. The reason being the non-co-operative attitude of the management and lack of interest on the part of workers. These committees neither call regular meetings nor do they discuss the real problems and effective working of the canteens. In fact, such committees are only good platform for
the workers to discuss irrelevant issues and to criticise the management for nothing.

**AT THE INDUSTRY LEVEL**

**THE WAGE POLICY** – The term ‘Wage Policy’ refers to the legislation or government action undertaken to regulate structure of wages for achieving specific objectives of social and economic policy. The social objectives of a wage policy aim at establishing fair standards and eliminating exceptionally low wages, protecting wage-earners from the impact of inflationary tendencies and increasing the economic welfare of the community as whole. Some other objectives other than social and economic objectives are as follows –

1. To bring social justice and equal opportunity of personal development
2. To maintain industrial peace
3. To provide guidance about wage fixation and revision and
4. To develop the skill of newly recruited industrial labour and other manpower resources.

The Payment of Wages Act, 1936 was enacted with a view to preventing the exploitation of workers from unfair deductions from wages. The Industrial Disputes Act of 1947 also provided means for dealing with disputes relating to wages. The Minimum Wages act was enacted in 1948 to fix statutory minimum wages in sweated industries. A committee was set up on fair wages in 1949 to determine the principles on which fair wages should be based. In the view of the committee, “A minimum wage must provide not merely for the bare sustenance of life but for the preservation of the efficiency of the worker. For this purpose, the minimum wage must also provide for some measure of education, medical requirements and other amenities.”

The committee has mentioned living wage and fair wage also beside minimum wages in its report. A living wage should enable the male wage earner to “provide for himself and his family not merely the bare essentials of food, clothing and shelter but a measure of frugal comfort including education for his children, protection against ill-health, requirements of essential social needs and a measure of insurance against the more important

misfortunes including old age."\(^4\) Regarding Fair wage, the committee concluded, "while the upper limit of the fair wage must obviously be the minimum wage, the upper limit is usually set by what may broadly be called the capacity of the industry to pay." Between these two limits, the committee added, "The actual wage would depend on the following factors.\(^5\)

1. the productivity of labour,
2. the prevailing rates of wages in the same or similar occupations in the same or neighbouring localities,
3. the level of national income and its distribution and
4. the place of the industry in the economy of the country.

In India, the Industrial Truce Resolution, 1947, the report of the National Commission on Labour, 1969, the Report of the Steering Group on Income, Wages and Prices appointed by the RBI, the report of the Committee on Wage Policy, 1974, Equal Remuneration Act 1976, the Bhoothanlingum Commission Report 1978 and the various reports of wage boards and the various pay commission have played an important role in structuring the wage policy.

In Haryana, the Payment of Wages Act, 1936, The Minimum Wages Act, 1948, The Equal Remuneration Act, 1972 are the main Acts which are applicable for structuring the wage policy.

Though wages have been determined and revised by various boards, commissions etc., yet the common view of the employees has been that they often delayed in giving decisions and the implementation of the recommendations were not accepted in 'toto'. Therefore, the wage issues in the units under study are largely settled through the collective bargaining in between trade unions and the owners. The wages, by and large, do not bear any relation to the skill of an employee, the type of work to be done, the qualifications of a person or to the category of the employing unit. There is a gross disparity in the wages of employees performing similar types of work and also the wage disparity between the lowest and highest paid employee is fairly high. The workers, who are actually engaged in productive work, receive lower emoluments than those who are working in other segments. When discussed from both labour and management regarding wages and allied issues, both have been guided by their own

\(^4\) Ibid., page 6.
\(^5\) Ibid., page 10.
sectional interests, which pull the wages in the direction where one or the other party is benefited, which often results in wage disparities, not only in the different spheres of the economy, but with in the same industry.

**AT STATE LEVEL**

**LABOUR ADVISORY BOARD** – At the State level, the labour advisory board provides a forum for the representative of government, employers and employees to discuss problems so as to maintain and promote harmonious industrial relations and to increase production. They advise the State on all matters relating to labour, particularly in the fields of industrial relations and labour welfare.6

**AT NATIONAL LEVEL**

**INDIAN LABOUR CONFERENCE AND STANDING LABOUR COMMITTEE**

These two bodies also become a part of the State preventive machinery because these issues sometime placed before the Indian Labour Conference and the Standing Labour Committee for advise.

The ILC and SLC are tripartite in character consisting of representatives of the Central and State Governments, employers and workers. These two bodies have exercised a significant influence on the evolution of the government’s policy and the cause of industrial relations. They have facilitated the enactment of central labour legislation on various subjects and promotion of uniformity in labour legislation in the country. Tripartite deliberations have helped reaching a consensus regarding minimum wage fixation (1948), introduction of health insurance scheme (1948) and provident fund scheme (1952) and enactment of many new labour laws and modification of the existing ones.

The main objectives underlying their establishment were, “promoting uniformity in labour legislation, laying down of a

procedure for the settlement of industrial disputes; and discussing all matters of national importance as between employers and employees.” To that effect, the ILC advises the Central Government on matters brought to it by the Central Government. In the earlier phases, the SLC made deliberations on its own or on matters sent to it for consideration by the ILC, which in turn, made the final recommendations. In the course of time both became deliberative bodies, the difference remained only in the degree of representation. The scope of the deliberations of both the bodies is confined mainly to labour matters in the country.

The ILC and SLC have also contributed much to the formulation of the procedures for the settlement of industrial disputes. The procedure of setting industrial disputes as envisaged in the Industrial Disputes Act, 1947, is a direct outcome of the deliberations of these bodies. The code of discipline and the code of conduct evolved at the ILC have also played an important role in influencing the pattern of industrial relations. Besides, many social, economic and administrative issues concerning labour have also been the subject matters of the deliberations in these bodies such as worker’s education, worker’s participation in management, training within the industry, wage policy, wage boards etc.

The ILC and SLC have been criticised on several points. Their contribution towards labour matters has suffered because certain far-reaching decisions were taken by them without consulting the tripartite groups. Increasing absence of unanimity in tripartite conclusions has also been a cause of criticism. Another reason of failure is a wide gap between the spokesman of employer’s and worker’s organisations and lack of control of the central organisations over their affiliates. Lastly, the worker’s organisations have criticised that it leaves the basic contradictions unresolved. The employers have also the same view that conclusions should be based on the points emphasised by all the parties not merely on the views summed up by the chairman.

CODE OF DISCIPLINE – The discipline to observe the “rules of the game” is an attitude of mind and requires, apart from legislative sanctions, persuasion on a morale plane. Majority of the employees follows rules and regulations as expected by the management.
However, some employees do not and thus they require disciplinary action of some sort.

Generally, managers think positively and feel that discipline should not punish but instead of this it should be corrective and constructive. Therefore, disciplinary action, as far as possible, deal with the specific rule infraction rather than the employee in general.

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7. If a misconduct is alleged against a workman, a charge sheet is issued to the workman and an enquiry is held if he does not admit the charges. The workman is given full opportunity to explain and defend his conduct. In awarding punishment under the Standing orders, the manager shall take into account the gravity if any, of the workman and any other extenuating or aggravating circumstances, that may exist on enquiry, if the workman is found guilty, he may be awarded the punishment; (2) During the enquiry, the delinquent workman if he so desires is assisted by a worker who is a workman belonging to the same establishment or by a representative of recognised union. The workman is permitted to produce witness in his defence and to cross examine the witnesses; (3) A concise summary of the evidence laid on either side and the workman’s plea is recorded by the person holding enquiry; (4) Where a disciplinary proceeding against a workman is completed or is pending or where criminal proceedings against him in respect of any offence are under investigation or trial and the manager is satisfied that it is necessary or desirable to place the workman under suspension, he may be an order in writing be suspended with effect from such date as may be specified in the order. A detail statement of the reasons for such suspension is supplied to the workman within a week from the date of suspension; (5) The employee cannot leave the station except with the written permission of the management, during the period of suspension; (6) Notwithstanding anything contained above where a penalty is imposed on an employee on the ground of conduct which has led to his conviction on a criminal charge, the manager may consider the circumstances of the case and pass such orders thereon as it deems fit.
In the 15th session of the Indian Labour Conference (1957), the question of discipline was discussed and a Code of Discipline was introduced in June, 1958. It aims at binding voluntarily employers and the employees to settle all disputes and grievances but mutual negotiations.

The main elements of the code are –

1. The two parties agree to utilise the existing machinery for the settlement of industrial disputes.
2. The parties shall not resort to strikes and lockouts without first exploring all avenues of settlement.
3. The parties accept that the disputes not settled mutually shall be referred to voluntary arbitration.
4. The code specifies the criteria for the recognition of a trade union and creates an obligation on the part of the employers to recognise the majority union in an establishment or an industry.
5. The two parties shall not resort to unfair labour practices detailed out in the code, such as go-slow tactics, deliberate damage to the plant or property and acts of violence, intimidation, coercion and instigation.
6. Under the code, the management and the union(s) agree to establish a grievance procedure on a mutually agreed basis.
7. The awards and agreements should be implemented speedily.

In brief, the code aims at “promoting constructive cooperation between the management and labour at all levels and avoiding work stoppages and litigations, and securing settlement of disputes and grievances through mutual consultations.”

Though the units under study have adopted the code, yet it has been found that the eagerness of the parties to observe the code has declined and they have developed an attitude of indifference to it. This is understandable enough in a way, for self-imposed discipline in terms of obligations backed by a moral sanction can not hold its way for long.

**STANDING ORDERS** – The Industrial Employment (Standing Orders) Act came into force from 1st April, 1947. It is applicable to all undertakings where 100 or more workers are working. The
purpose of this Act has been “to regulate the conditions of work thereby minimising industrial conflicts and to secure settlement of industrial grievances.” Matters to be provided for in Standing Orders, under the Act, have been discussed.

In Haryana, Standing Orders are to be followed by all the undertakings under study. Under the Act, it is obligatory on the part of the employers to frame Standing Orders, which define precisely the conditions of employment in industrial undertakings for the information of workers employed therein. It applies to every industrial establishment in the State employing 100 or more workmen on any day of the preceding 12 months and to such class or classes of industrial establishments, as the State government may from time to time specify in this behalf. Accordingly, it applies to all the units covered under the present study.

The Industrial Employment (Standing Orders) Act, 1946 requires every employer of an industrial establishment to submit draft Standing Orders, i.e. rules relating to the matters set out in schedule u/s 3 (i) which it proposed to adopt for the workmen employed in its industrial establishment. Generally, the draft Standing Orders of the various units contain the following matters given below –

1. Classifications of workmen, whether permanent, temporary, apprentice, probationers or casual or badli etc.
2. Manner of intimating to workmen, periods and hours of work, holiday, pay-days and wage rates
3. Shift working
4. Attendance and late coming
5. Conditions of procedures, in applying for and the authority which may grant leave and holidays
6. Requirement to enter premises by certain gates and liability to search
7. Closing and reopening of sections of the industrial establishments and temporary stoppage of work and the rights and liabilities of employers and workmen arising therefrom
8. Closing and reopening of the entire industrial establishment or departments thereof and the rights and liabilities of the employer and the employees arising therefrom
9. Closure due to fire, breakdown of machinery, failure of power and other causes beyond the control of management
10. Suspension and dismissal for misconduct and acts or omissions which constitute misconduct
11. Penalties for misconduct
12. Procedure for imposition of fines and censure notices
13. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants
14. Deductions for damages due to loss of goods
15. Procedure for recruitment of badlies
16. Conditions for abolition of posts and
17. Conditions for promotion of workmen whether on temporary or permanent basis.

GRIEVANCE PROCEDURE

Grievances are worker's - individual or group - dissatisfactions expressed as complaints about the conditions of their day-to-day work environment. According to M.J. Jucious, "A grievance is any discontent or dissatisfaction whether exposed or not and whether valid or not, arising out of anything connected with company that an employee thinks, believes, or even feels is unfair, unjust and inequitable." The Indian Labour Conference had also adopted a concept of a grievance, "complaints, affecting one or more individual workers in respect of their wage payments, over time, leave, transfer, promotion, seniority, work assignment, working conditions and interpretation of service agreement, dismissal and discharges would constitute grievances. Where the points of dispute are of general applicability or of considerable magnitude, they will fall outside the scope of grievance procedure."\(^8\)

Yet another definition of grievance is "A grievance exists whenever an employee or union representative feels that there has been a violation of the agreement or a legal provision or an

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Till the Enactment of the Industrial Employment (Standing Orders) Act, 1946, the settlement of day-to-day grievances of workers did not receive much attention in our legislative framework. The Act, too, has limited applicability, it applies only to those establishments employing 100 or more workers.

The Indian Labour conference approved a model grievance procedure in 19th September, 1958. Now it is the responsibility of Central and State governments to ensure that a grievance procedure is set up by every management in consultation with their workers. A model grievance procedure has been evolved by the Indian Labour Conference to guide the parties in drawing up their procedures.

Prompt redressal of grievances is an important element of the procedure involved in handling relations with workers. It is necessary that two parties develop tripartite arrangements for ventilating these dissatisfaction or complaints as an important step towards building a stable, workable relationship.

In small units, a formal grievance procedure may not seem to be feasible and useful but as the size of the undertaking increases, communication becomes more difficult. With widening communication gap, grievances among members are bound to emerge. In fact the absence of grievance is not necessarily a sign of healthy organisation. It is quite likely that an organisation which has no aggrieved members may be having a culture where in freedom of expression and feedback are not taken in the right perspective. It may be an indicator of a suppressive environment. On the other hand, free and frank expression of grievances, normally, represents a culture of openness as well as belief in the system. In fact, a living and dynamic organisation there will always be people who will not be able to adequately cope up with changes in the organisation and to that extent they will be aggrieved with the organisation. It is the responsibility of the organisation to develop coping mechanisms, which could be adequate to ensure that such grievances are known and are properly handled. “prompt redressal

of individual grievances is essential for sustaining good labour-management relations and promoting efficiency at the plant level. Absence of machinery for it leads to small grievances developing into collective disputes.10

**MODEL GRIEVANCE PROCEDURE**

The model grievance procedure, provides for step-by-step processing of worker’s Grievances within fixed time limits. The grievance is first to be presented orally to a designated officer who is to give a reply with in 48 hours. If the worker is dissatisfied with the decision or does not get an answer with in time; he would present his grievance to the head of the department either himself or through his departmental representative. The departmental head would decide within three days after which the worker could go to the grievance committee if he still feels dissatisfied or does not get an answer within the fixed time. The grievance committee will consist of management nominees and worker’s representatives in equal number. It would communicate its recommendation to the management within seven days. Reasons for delay, if any, would also be recorded. Unanimous recommendations of the Grievance Committee would be implemented by the management. In case there is a difference of opinion, the relevant papers would be placed before the manager for decision who would give his decision within three days. The worker would have a right of appeal to the management for revision. The appeals would be decided within a week of submission and the worker would be allowed to take with him an union official to facilitate discussion.

In case of failure to settle the grievance even at revision stage, the union and the management may refer it to voluntary arbitration within a week of receipt of the management’s final decision. It is also provided that the formal conciliation machinery will not intervene unless all steps in the procedure are exhausted. In case of any complaint against any such person who is nominated by the management to handle grievance at the lowest level, the workmen may take up his grievance at the next higher stage i.e. at the level of Departmental Head.

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This procedure will not apply to cases of discharge or dismissal. In such cases an appeal may be made to the dismissing authority or any higher authority designated by the management, within a week from the date of dismissal or discharge.

The grievance committee shall consist of four to six members having equal representatives of management and workers. It is suggested that the management representative should be the Departmental Head of the concerned Department plus the official who dealt with the matter at the first stage or the personnel officer should act as advisor. For the worker’s representatives, it is provided that where there is a recognised union, an union representative and the union departmental representative of the concerned Department should be nominated on the committee. Where the union is not recognised or there is no union but there is a works committee the concerned Department’s worker’s representative on the works committee and the secretary or the Vice-President of the works committee should represent the workers on the grievance committee.

SHORT-COMINGS

There are several shortcomings in the model grievance procedure such as: There is no specific mention of the grievances to be presented in writing at the second stage which is essential; in the grievance committee the worker is not allowed to present his case in person while it is necessary that the aggrieved person should get such a chance either alone or along with a fellow worker at all stages; the procedure does not mention about the representation of workers if there is neither a representative union nor a works committee; it does not make clear whether the union other than the recognised union may pursue a grievance or not; in case any grievance could not be redressed even after a revision appeal to the management, the union and the management may refer the grievance to voluntary arbitration which means that only union and not the individual worker or workers could decide about such reference. Despite the above shortcomings, however, the grievance procedure has proved an important tool to solve the workers problems. It has sought to establish formal procedure through which cash and every worker may hope to get his grievance redressed.
GRIEVANCE PROCEDURE IN THE UNITS UNDER STUDY

During the course of survey it was found that 2 to 10 cases of grievances occurred every year in different units under study but due to absence of proper record it was not possible to present it statistically. However, all the units under study have a well-defined Grievance procedure. Under this procedure, an aggrieved worker first presents his grievance verbally in person to his immediate supervisor, who in most cases is the supervisor. The grievance is redressed with in 48 hours of the presentation of complaint. If the worker is not satisfied with the decision of the officer or fails to receive answer with in the stipulated time, he either in person or accompanied by his departmental representative presents his grievance to the Head of the Department designated by the management for the purpose of handling grievance. He gives his decision with in three days of the submission of the grievance. If the decision of the head is unsatisfactory, the worker may request him about forwarding his grievance to the “Grievance Committee”, or works committee, where grievance committee is not formed formally, makes its recommendations to the manager with in a week. Unanimous recommendations of committee are implemented. But if worker is not satisfied with this decision too, he has the right to appeal to the management for the revision of the decision. The decision so revised is communicated to the worker with in a week. If, however, no agreement is possible, then the matter is referred to the voluntary arbitration. Formal conciliation machinery generally does not intervene in this regard till all steps in the procedure are exhausted.

VIEWS OF THE PARTIES REGARDING THE WORKING OF THE GRIEVANCE PROCEDURE

The views of the workers, union functionaries and management regarding the working of the grievance redressal procedure are given as follows-
WORKERS- All the workers felt the need and importance of grievance procedure. They said that this is the only way their grievances can be settled properly.

About the “working and efficacy of the grievance procedure”, the workers' views are given in Table 6.1. The respondents expressed a mixed view. Table 6.1 revealed that 47.39% workmen believe that the present grievance redressal procedure is efficient whereas almost the same number of workers (24.91%) gave their responses to not efficient and mediocre (27.70%). The workers who were not satisfied with the grievance redressal procedure blamed the management that instead of redressing the grievances permanently, the management always tried to take path of the temporary redressal. Therefore, same type of grievances occur again and again. They felt that it was due to non-maintenance of the proper record of the grievances and the indifferent attitude of the management towards the workers. Individually, the workers who were satisfied with the working and efficacy of the grievance redressal procedure were from the units like Atlas Cycles, Asea Brown Boveri Limited and K.G. Khosla Limited.

After analysing Table 6.2 regarding the question, “To whom you want to approach in case of a complaint?” we concluded that 36.24% workmen wanted to approach their senior officers whereas almost same number i.e. 36.93% of workmen wanted to approach the Departmental Head. This clearly shows that workmen want prompt redressal of their grievances. They were also of the view that grievances were satisfactorily settled only at stage (iii) i.e. grievance committee \ works committee stage. Only 24.22% workmen wanted to approach the Trade union leaders. The number of workmen who wanted to approach the trade union leader was less because some workmen felt that most of the time union functionaries were indifferent or gave delayed attention in taking up and processing their grievances and if the aggrieved person was not a member of the union, his case was always neglected by them. The workmen were of the view that there must be quick and permanent redressal of grievances. Remaining 2.61% workmen wanted to approach directly the Labour Officer, which indicates that they do not know even about the procedure that formal conciliation machinery generally does not intervene in this regard till all steps in the procedure are exhausted.
## DETAILS OF THE RESPONSES OF THE SAMPLE WORKERS

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<th>NAME OF THE UNIT</th>
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<th>QUESTION</th>
<th>NAME OF THE UNIT</th>
<th>HOW MUCH EFFICIENT IS GRIEVANCE REDRESSAL PROCEDURE IN YOUR UNIT?</th>
<th>QUESTION</th>
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<td>6 (24)</td>
<td>ATLAS CYCLE INDUSTRIES LIMITED</td>
<td>6 (24)</td>
</tr>
<tr>
<td>CHLUCTH AUTO LIMITED</td>
<td>22 (82.17)</td>
<td>K.G. KHOSLA LIMITED</td>
<td>22 (82.17)</td>
<td>K.G. KHOSLA LIMITED</td>
<td>22 (82.17)</td>
</tr>
<tr>
<td>BATA INDIA LIMITED</td>
<td>52 (36.67)</td>
<td>HERO HONDA MOTORS LIMITED</td>
<td>52 (36.67)</td>
<td>K.G. KHOSLA LIMITED</td>
<td>52 (36.67)</td>
</tr>
<tr>
<td>ESCORTS LIMITED</td>
<td>56 (36)</td>
<td>ATLAS CYCLE INDUSTRIES LIMITED</td>
<td>56 (36)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>56 (36)</td>
</tr>
<tr>
<td>ESSENTIALS LIMITED</td>
<td>56 (36)</td>
<td>K.G. KHOSLA LIMITED</td>
<td>56 (36)</td>
<td>HERO HONDA MOTORS LIMITED</td>
<td>56 (36)</td>
</tr>
<tr>
<td>ATLAS CYCLE INDUSTRIES LIMITED</td>
<td>24 (57.1)</td>
<td>K.G. KHOSLA LIMITED</td>
<td>24 (57.1)</td>
<td>HERO HONDA MOTORS LIMITED</td>
<td>24 (57.1)</td>
</tr>
<tr>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>7 (39.14)</td>
<td>ESCORTS LIMITED</td>
<td>7 (39.14)</td>
<td>K.G. KHOSLA LIMITED</td>
<td>7 (39.14)</td>
</tr>
<tr>
<td>CHLUCTH AUTO LIMITED</td>
<td>10 (37.04)</td>
<td>USHA TELEHOIST LIMITED</td>
<td>10 (37.04)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>10 (37.04)</td>
</tr>
<tr>
<td>BATA INDIA LIMITED</td>
<td>5 (20)</td>
<td>USHA TELEHOIST LIMITED</td>
<td>5 (20)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>5 (20)</td>
</tr>
<tr>
<td>USHA (INDIA) LIMITED</td>
<td>7 (25)</td>
<td>ESCORTS LIMITED</td>
<td>7 (25)</td>
<td>K.G. KHOSLA LIMITED</td>
<td>7 (25)</td>
</tr>
<tr>
<td>POOL INDUSTRIES LIMITED</td>
<td>16 (53.33)</td>
<td>HERO HONDA MOTORS LIMITED</td>
<td>16 (53.33)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>16 (53.33)</td>
</tr>
<tr>
<td>K.G. KHOSLA LIMITED</td>
<td>3 (12.5)</td>
<td>ESCORTS LIMITED</td>
<td>3 (12.5)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>3 (12.5)</td>
</tr>
<tr>
<td>HERO HONDA MOTORS LIMITED</td>
<td>10 (37.04)</td>
<td>K.G. KHOSLA LIMITED</td>
<td>10 (37.04)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>10 (37.04)</td>
</tr>
<tr>
<td>ESCORTS LIMITED</td>
<td>45 (39.14)</td>
<td>HERO HONDA MOTORS LIMITED</td>
<td>45 (39.14)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>45 (39.14)</td>
</tr>
<tr>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>5 (20)</td>
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<td>5 (20)</td>
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<td>5 (20)</td>
</tr>
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<td>7 (39.14)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>7 (39.14)</td>
</tr>
<tr>
<td>USHA (INDIA) LIMITED</td>
<td>5 (20)</td>
<td>ESCORTS LIMITED</td>
<td>5 (20)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>5 (20)</td>
</tr>
<tr>
<td>POOL INDUSTRIES LIMITED</td>
<td>7 (25)</td>
<td>HERO HONDA MOTORS LIMITED</td>
<td>7 (25)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>7 (25)</td>
</tr>
<tr>
<td>K.G. KHOSLA LIMITED</td>
<td>14 (48.28)</td>
<td>ESCORTS LIMITED</td>
<td>14 (48.28)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>14 (48.28)</td>
</tr>
<tr>
<td>HERO HONDA MOTORS LIMITED</td>
<td>7 (25)</td>
<td>K.G. KHOSLA LIMITED</td>
<td>7 (25)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>7 (25)</td>
</tr>
<tr>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>10 (37.04)</td>
<td>ESCORTS LIMITED</td>
<td>10 (37.04)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>10 (37.04)</td>
</tr>
<tr>
<td>CHLUCTH AUTO LIMITED</td>
<td>7 (25)</td>
<td>ESCORTS LIMITED</td>
<td>7 (25)</td>
<td>BHARTIA CUTLER HAMMER LIMITED</td>
<td>7 (25)</td>
</tr>
</tbody>
</table>

**Note:** Figures given in parentheses indicate percentage.
Table 6.2
Details of the Responses of the Workers

Which officer would you like to approach in case of any complaint?

<table>
<thead>
<tr>
<th>Name of the Unit</th>
<th>Total Responses Received</th>
<th>Labour Officer</th>
<th>Department Head of the Union Leader</th>
<th>Senior Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Usha Telehoster Limited</td>
<td>15 (54.37)</td>
<td>4 (14.29)</td>
<td>9 (36)</td>
<td>6 (24)</td>
</tr>
<tr>
<td>Usha India Limited</td>
<td>15 (54.37)</td>
<td>2 (7.14)</td>
<td>7 (28)</td>
<td>6 (24)</td>
</tr>
<tr>
<td>Thomson Press India Limited</td>
<td>15 (54.37)</td>
<td>-</td>
<td>3 (10)</td>
<td>11 (44.27)</td>
</tr>
<tr>
<td>Sunbeam Castings</td>
<td>9 (31.03)</td>
<td>10 (34.48)</td>
<td>6 (20.69)</td>
<td>9 (31.03)</td>
</tr>
<tr>
<td>K.G. Khosla Limited</td>
<td>9 (31.03)</td>
<td>1 (3.45)</td>
<td>1 (3.45)</td>
<td>1 (3.45)</td>
</tr>
<tr>
<td>Hero Honda Limited</td>
<td>9 (31.03)</td>
<td>1 (3.45)</td>
<td>1 (3.45)</td>
<td>1 (3.45)</td>
</tr>
<tr>
<td>Escorts Limited</td>
<td>9 (31.03)</td>
<td>1 (3.45)</td>
<td>1 (3.45)</td>
<td>1 (3.45)</td>
</tr>
<tr>
<td>Eicher Tractors Limited</td>
<td>13 (46.43)</td>
<td>48 (71.74)</td>
<td>10 (34.48)</td>
<td>6 (22.22)</td>
</tr>
<tr>
<td>Clutch Auto Limited</td>
<td>13 (46.43)</td>
<td>48 (71.74)</td>
<td>10 (34.48)</td>
<td>6 (22.22)</td>
</tr>
<tr>
<td>Bhartia Cutler Hammer Limited</td>
<td>13 (46.43)</td>
<td>48 (71.74)</td>
<td>10 (34.48)</td>
<td>6 (22.22)</td>
</tr>
<tr>
<td>Asea Brown Bovery Limited</td>
<td>13 (46.43)</td>
<td>48 (71.74)</td>
<td>10 (34.48)</td>
<td>6 (22.22)</td>
</tr>
</tbody>
</table>

Note: 1. Figures given in parentheses indicate percentage.
2. Total workers interviewed: 574.

Source: Computed from the responses received from the workers of different units.

Table 6.3
Details of the Responses of the Workers
UNION- The union functionaries perceived this procedure as adequate but held that its implementation was defective. They also observed that primary stages were ineffective because a large number of grievances were not redressed at these stages. They also observed several other drawbacks such as –

1. Indifferent attitude of the management
2. Lack of the authority with officers dealing with the grievance redressal procedure at primary stages.
3. Too much time taken in getting a grievance processed and resolved
4. Delay in the implementation of the decision of the grievance machinery
5. Lack of knowledge among workers about the procedure and
6. Lack of communication between rank and file of the organisation.

They suggested quick disposal of grievances, timely and proper implementation of the decisions of the committee, reduction in the number of stages by combining primary stages I and II, proper communication within the organisation and proper record of the grievances such as nature of grievances, stages used and result or decision given etc.

MANAGEMENT- The management personnel also admitted that they did not possess sufficient authority to deal with grievances effectively at primary stages. The management at the top was in the habit of treating even a minor matter as prestige issue, inordinate delays in redressal of grievances were due to rigid attitude of union leaders and there was lack of effective co-operation and communication. On the part of the union representatives in resolving grievances, they suggested that some powers to the Departmental Heads and Supervisory personnel must be given so that they may deal with grievances at stage I and II effectively; there should be some provision of training to workers and supervisors about the processing of grievances and a liberal attitude should be adopted by both the parties. They also explained that there is no need to maintain record of all type of grievances because it is just wastage of time, money and effort. They admitted delay in disposal of grievances and blamed the union functionaries for the same saying that they preferred to settle
even minor grievances which could have been resolved at lower levels easily. They take it to higher levels in order to gain only publicity for themselves. They were also critical about the rigid attitude of union leaders.

In fact, the grievance procedure is not effective in ensuring settlement of grievances at lower level. Chronic delays have been experienced by all the categories of respondents which can not be called conducive to healthy Industrial Relations. Representatives of workers are not associated timely with the grievance committee. The officers associated with these committees were either not free or did not take any interest in resolving workers' grievances promptly. This was mainly because of the weakness of workers' union.

SUGGESTIONS TO IMPROVE GRIEVANCE PROCEDURE

It is imperative that there should be some improvements in the grievance procedure. In this connection following suggestions to improve the grievance procedure according to the expectations of the working class may be useful –

1. The grievance procedure should be simple having fewer number of stages. The same should be in the language which is easily understood by the majority of workers.

2. The redressal of grievances must be quick and permanent to provide real relief to workers

3. Proper records of all grievances should be maintained by every unit including those which are presented orally and settled at the first stage because this will be useful both for analysis and research as well as for ensuring consistency in handling similar grievances.

4. The management personnel who are authorised to redress the workers' grievances, should take sincere interest in them. They should listen to them patiently and should not try to shift the responsibility on others. They should also be ready to admit their mistakes, if any, and they should not give snap judgements.
5. The unions should also realise their responsibility towards the undertakings and the nation and should try to co-operate with the management. The progress of any undertaking will also indirectly help the welfare of the workers employed in that unit.

6. Both the management and the workers and trade unions should be prepared to appreciate the difficulties of each other in the interest of arriving at mutually acceptable agreements.

7. The management may arrange policy oriented research from time to time and on the basis of its findings the management may bring some changes in the policies with an open mind.

8. The management should not stick rigidly to the letter of the law. Instead, they should adopt a flexible approach and make the grievance settlement machinery really effective.

**COLLECTIVE BARGAINING**

The collective bargaining, generally, denotes the process of bipartite negotiations between the management and worker’s representatives, with a view to reaching agreement on working conditions, terms of employment and several other matters affecting the interests of either party. The term has been defined variously by several persons, but the Central theme of all the definitions is very much similar. The Encyclopaedia of Social Sciences has defined the term as "Collective Bargaining is the procedure by which an employer or employers and a group of employees agree upon the conditions of work. The institution is both a device used for by wage-workers to safeguard their interests and an instrument of industrial organisation."

In the words of Subramaniam, "Collective Bargaining is the term applied to the process by which trade unions and management voluntarily meet, discuss, argue, rebut, negotiate and finally settle some or all of the terms on which employees agree to work for an employer for the duration of the agreement."

In the opinion of Richardson bargaining process takes place, when a number of work people enter into negotiations as a bargaining unit with an employer or group of employers with the object of reaching agreement on conditions of employment for the work people concerned.13

“Collective Bargaining may be defined as negotiations about working conditions and terms of employment between an employer, a group of employers or one or more employers’ organisations on the one hand and one or more representative worker’s organisation on the other, with a view to reaching agreement.”14 When a dispute spring up in respect of working conditions, it is natural that the representatives of the parties to the dispute should sit around a table, understand each other’s views and negotiate with a view to reaching agreement. Even if the discussions break down resulting in a strike or lockout, the discussions held come with in the definition of collective bargaining.

Collective bargaining is a continuous process of negotiations between the representatives of labour and management for resolving their disputes or differences amicably by bilateral agreement without the intervention of a third party. The idea of collective bargaining was originally meant to protect only the weak employees against the powerful management, but these days collective bargaining relationship is considered to be process of healthy, growing and purposeful industrial relations.

COLLECTIVE BARGAINING IN INDIA

Collective bargaining in our country starts from 1918 when Mahatma Gandhi entered in the Indian Labour movement but, for want of statutory provisions, it could not gain ground and popularity. Though the Government of India had enacted Trade Unions Act, 1926 and Trade Disputes Act, 1929 yet the position did not change significantly till 1947. In fact the enactment of Bombay Industrial Relations Act, 1946 and Industrial Disputes Act, 1947, paved the way for collective bargaining, thus, the legal measures, inspite of their

limitations, have provided impetus to collective agreements in the form of joint consultation in bipartite and tripartite meetings at the National, State and Industry levels.

Though collective bargaining as a system has got full recognition in the field of industrial relations in the country yet its future is still not wholly secure as it is yet to develop and strengthen its hold on the industry and labour. There are several reasons which come in the way of the proper growth of this system e.g. weaker trade unions, indifferent attitude of the management and union leaders, and feudal attitude of managers.

As observed by B. Shiva Rao, "It is demanding too much of human nature to expect that a mill manager in India or the head of factory would tolerate for long, one of his own workers being the secretary or some responsible official in a trade union, listen to his representations, conduct negotiations with him not only in normal times but even during strikes and lockouts."\(^{15}\) Besides this, if the employers can not prohibit the workers to organise themselves in a trade union, they try to win over the trade union leaders by foul practices. In private sector, the managerial attitude in this respect is found to be more hostile with trade unions, particularly with unregistered unions.

**COLLECTIVE BARGAINING IN THE UNITS UNDER STUDY**

In order to have an idea of collective bargaining position in the units under study the number of agreements in between management and workers representatives executed during the last several years are given in Table 6.3

From a perusal of Table 6.3 it is clear that largest number of agreements (18) have been executed in Bata India Limited followed by Asea Brown Boveri with 14 agreements, Atlas cycle and Thomson Press with 10 agreements each. The lowest number of agreements is in K.G. Khosla where only 2 agreements have been taken place. No agreement has been taken place in Hero Honda and Polar industries as no union exists in these units.

It has been observed from the table that both management and workers are keen to adopt collective bargaining method than any other mean of settlement. They believe that industrial relations can be

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\(^{15}\) Rao, B. Shiva : 'The Industrial Worker in India', page 162.
### TABLE - 6.3
**NUMBER OF AGREEMENTS EXECUTED IN THE UNITS UNDER STUDY**

<table>
<thead>
<tr>
<th>NAME OF THE UNITS</th>
<th>FIRST AGREEMENT YEAR</th>
<th>NO. OF COLLECTIVE BARGAINING AGREEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASEA BROWN BOVERI LIMITED</td>
<td>1960</td>
<td>14</td>
</tr>
<tr>
<td>ATLAS CYCLES</td>
<td>1964</td>
<td>10</td>
</tr>
<tr>
<td>BATA INDIA LTD.</td>
<td>1953</td>
<td>18</td>
</tr>
<tr>
<td>BHARTIA CUTTLER HAMMER LIMITED</td>
<td>1984</td>
<td>4</td>
</tr>
<tr>
<td>CLUTCH AUTO LTD.</td>
<td>1977</td>
<td>7</td>
</tr>
<tr>
<td>EICHER TRACTORS</td>
<td>1970</td>
<td>9</td>
</tr>
<tr>
<td>ESCORTS LIMITED</td>
<td>1977</td>
<td>8</td>
</tr>
<tr>
<td>HERO HONDA LTD.</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>K.G. KHOSLA LTD.</td>
<td>1995</td>
<td>2</td>
</tr>
<tr>
<td>POLAR INDUSTRIES</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>SUNBEAM CASTINGS LTD.</td>
<td>1990</td>
<td>4</td>
</tr>
<tr>
<td>THOMSON PRESS</td>
<td>1977</td>
<td>10</td>
</tr>
<tr>
<td>USHA INDIA LTD.</td>
<td>1978</td>
<td>5</td>
</tr>
<tr>
<td>USHA TELEHOIST</td>
<td>1993</td>
<td>3</td>
</tr>
<tr>
<td>TOTAL</td>
<td>-</td>
<td>94</td>
</tr>
</tbody>
</table>

**SOURCE:** INFORMATION GIVEN BY THE PERSONNEL DEPARTMENT OF THE RESPECTIVE UNITS.

maintained through this method as it improves understanding between the parties.

In spite of favourable thinking about this method, the progress of collective bargaining is very slow in private sectors. The system of compulsory arbitration/adjudication has discouraged collective bargaining because both the parties feel that they should not place all their cards on the table in the initial stages of bargaining, lest it may go against them, when the matter is referred for adjudication.

On the whole, it can not be claimed that the system of collective bargaining has taken any firm root in the country. Labour has become accustomed by now to secure its demands through adjudication or by bringing political pressure on the Government to pass legislation for securing its various claims.
METHODS OF SETTLEMENT OF INDUSTRIAL DISPUTES

One important fact to be remembered and constantly kept in view is that industrial dispute, in the sense of being difference between the employers and their employees regarding the terms and conditions of employment, can not be prevented from arising under the industrial organisation of today. Differences will always arise. Therefore, what can partly, if not wholly, be prevented is the work stoppage resulting from the industrial disputes. If an effective machinery is available for setting the disputes amicably, the necessity for strikes and lockouts can be reduced. The State government does not interfere with the basic freedom of the employers, their employees and trade unions to conduct their relations and to compose their differences in a manner they think best. However, in the interest of the nation, the State government can not leave the parties completely free to settle their disputes. Here a brief discussion about the machinery created by the statutes viz. conciliation services of the conciliation officer and the Board of the Conciliation, arbitration and adjudication authorities consisting of Tribunals and Labour Courts at the State level and the National Tribunals at the Central level.

A. CONCILIATION AND BOARD OF CONCILIATION

Conciliation may be described as, “The practice by which the services of a neutral third party are used in a dispute as a means of helping the disputing parties to reduce the extent of their differences and arrive at an amicable settlement or agreed solution. It is a process of national and orderly discussion of differences between the parties to a dispute under the guidance of a conciliator.”

Conciliation works as a process of peace making in industrial relations and it aims to bring about speedy settlement of disputes without resort to strikes or lockouts and to hasten the termination of work stoppages.

When these have occurred, conciliation works towards bringing a mutually acceptable solution between both the disputing parties.

The conciliation machinery is provided in the Bombay Industrial Relations Act, 1946 and the Industrial Disputes Act, 1947, under these Acts conciliation officers are appointed by the appropriate government.

The conciliation officer is required to tone down the aspirations of labour and tone up the bid of employers for a possible compromise. Briefly speaking, a conciliation officer is essentially a psychologist and the conciliation process is psychiatric (therapy) applied on individuals having uncommon interests.17

The allegation and counter allegation between the two conflicting parties shows complete absence of trust, co-operation and goodwill between them. This is the basic dilemma in which a conciliation officer is placed, while attempting a compromise in an industrial dispute.

The conciliation officer is empowered with the rights to call forth any document which he has ground for considering to be relevant for industrial disputes and to enter the premises occupied by any establishment to which the industrial dispute relates.

The technique chosen by a conciliation officer is of fact finding from both the parties to an industrial dispute, for this he also has powers of issuing of summons, enforcing the attendance of witnesses, examining the person on oath etc. As our late labour minister Shri G.D. Bajpai used to say, nobody can stop the workers from demanding the Throne of England, which means that the aspirations of the workers may be very high. Therefore, fact finding is a necessary ingredient of conciliation proceedings. Therefore, every fact is required to be placed at the conciliation stage itself.18

When the facts have been explored, then the conciliation officer is required to make suggestions as to a possible compromise. If a conciliation officer is able to bring about a compromise it is drafted immediately. It is usually better that the top management itself takes

part in conciliation proceeding when a compromise is required to be reached.

If no settlement is reached then it is the duty of the conciliation officer to make a failure report to the State Government, setting forth the steps taken by him and the probable reasons for failure to the appropriate government. The report will accompany a full settlement of facts and circumstances of the dispute. He also sends a confidential report, stating whether the dispute merits a reference to a Labour Court or a Tribunal. Such matters, which involved a denial of created rights are referred to Labour Courts and those which deal with new rights are referred to an Industrial Tribunal. And if the number of workman is more than 100, such cases are necessarily referred to an Industrial Tribunal. And the reference the Labour Court or Tribunal submits its awards to the State Government. These awards are not appealable.

**BOARD OF CONCILIATION**

Sometimes when a conciliation officer, fails to bring about a compromise, a Board of Conciliation is set up and the case is referred to the Board. The Board consists of a chairman who is neutral and two or four other members who are appointed equal numbers of represent the party in dispute and are appointed on the recommendation of the party only. The Board is not a permanent body and is constituted as and when required. A dispute may also be referred to a Board when the disputing parties apply for it, whether jointly or separately and the government is satisfied that the persons applying represent the majority of each party. The duties of the Board of Conciliation are almost the same as that of the conciliation officer.

The Board is required to submit its report to the Government within two months from the date the dispute is referred. If the Board fails in a conciliation, the government may refer the dispute to the tribunal for adjudication.

The State Labour Commissioner and the three Deputy Labour Commissioners and the Labour Officer at the headquarters (Bhilwara) work as conciliation officer under the Industrial Disputes Act, 1947 for the whole of Haryana. While the Regional Assistant Labour Commissioner, the Labour Officers and the Labour Inspector work as such in the areas of their respective jurisdiction. These authorities hold the meetings of the parties, gather full facts and complete
information and then place before the parties suggestions with alternatives and persuade the parties to reach a settlement. If the settlement is reached the report of the proceedings and the decision reached is submitted, duly signed by the parties concerned, with in 14 days to the government and copies given to the parties. The settlement is generally binding on the parties for a period agreed upon between them or for a period of six months. If no settlement is reached, the government is 'informed of the action taken by conciliation officer, with causes of failure to reach a settlement. The dispute may then referred to Board of Conciliation and if it is also fail then it may be referred to arbitration or adjudication as the government may think it.

During the course of survey, we observed that management people were hesitating to give the actual information of the cases referred to conciliation for one reason or the other. However, it was told that 1 to 7 cases were referred for conciliation.

B. ARBITRATION

Arbitration is a means of securing an award on a conflict issue by reference to a third party. It is a process in which a dispute is submitted to an important outsider who makes a decision, which is usually binding on both parties. The main objective of arbitration is adjudication and hence, there is no place for compromise in awards through the parties are at a liberty to do so.\textsuperscript{19}

Arbitration is different from conciliation because the decision of arbitrator is binding on the parties, where as such is not the case in conciliation, also the approach and the spirit is different in arbitration as compared to conciliation. Arbitration may be voluntary or compulsory under voluntary arbitration, the parties to the dispute can and do themselves refer voluntarily any dispute to arbitration before it is referred for adjudication where as under compulsory arbitration, the parties are required to arbitrate without any willingness on their part. When one of the parties to an industrial dispute feels dissatisfied or aggrieved by an act of the other party, it may apply to the appropriate government to refer the dispute to adjudication machinery. Such a reference is known as compulsory or involuntary. Compulsory arbitration leaves no scope for strikes or lockouts and thus deprives

\textsuperscript{19} C.B. Mamoria – S. Mamoria "Dynamics of Industrial Relations in India" Himalayan publishing house, Delhi 1987, page 592.
both the parties of their very important and fundamental rights.

Once a dispute has been referred to an arbitrator, he first hears both the parties and as a result manages to get all the relevant facts from both the parties. Investigation of facts and circumstances of the dispute is of great importance investigation should try to find out, who and what are involved in a dispute. The arbitrator may call witnesses, get evidences and relevant records and documents, the various agreements and decisions on similar disputes in the past, other court decisions, statutes etc. After all facts are collected and compiled, arguments take place. During arguments the principle of fair hearing is followed i.e. both the parties are given equal opportunities to state their arguments. Both parties should also be aware of when the proceeding would take place and what would be the issues involved. Both parties should also be free to give evidences in their favour. The arbitrator has to be completely impartial with out any bias or prejudice against anybody.

After investing the dispute, the arbitrator has to submit his award to the Government. This award would have the same legal force as the judgement of a Labour Court or Tribunal. In India to make the arbitration more acceptable to the parties and to coordinate efforts for its promotion, the Government appointed the National Arbitration Promotion Board in July 1967.

The process of voluntary arbitration is not used in the units under study.

C. ADJUDICATION

A substantive part of the unresolved disputes are referred for adjudication to Labour Courts, Tribunals and National Tribunals. Adjudication involves intervention in the dispute by a third party appointed by the government for the purpose of deciding the nature of final settlement. Adjudication is resorted to when conciliation and arbitration have failed.

When both the disputing parties agree to refer the dispute to adjudication, it is called “voluntary adjudication.” And when the government refer it for adjudication without the consent of both or either of the parties, it is known as compulsory adjudication. The
Industrial Disputes Act, 1947 provides a three-tier system of adjudication –

1. Labour Court
2. Industrial Tribunals
3. National Tribunals

1. **LABOUR COURT** - The appropriate government may constitute one or more Labour Courts for the adjudication of industrial disputes, relating to any matter specified in the second schedule to the act and for performing such other functions as may be assigned to them. The matters specified in the second schedule are –
   1. The propriety or legality of an employer to pass an order under the standing orders.
   2. The application and interpretation of standing orders
   3. Discharge or dismissal or termination of services including reinstatement of or grant of relief to employers wrongfully dismissed
   4. Illegality or otherwise a strike or a lockout
   5. Withdrawal of any customary concessions or privileges
   6. All matters other than those specified in the 3rd schedule and for performing such other functions as may be assigned to them under this act.

2. **INDUSTRIAL TRIBUNAL** - It may be set up by the appropriate government on a temporary or permanent basis for the adjudication of industrial disputes relating any matter whether specified in the second schedule or the third schedule. The matters specified in the third schedule are –
   1. Wages including the period and mode of payment
   2. Hours of work and rest intervals
   3. Leave with wages and holidays
   4. Compensatory and other allowances
   5. Bonus, profit-sharing, provident fund and gratuity
   6. Classification of grades
   7. Shift working otherwise than in accordance with Standing orders
   8. Rules of discipline
   9. Rationalisation.
10. Retrenchment of employees and closure of an establishment or undertaking.
11. Any other matter that may be assigned to them under the act.

3. NATIONAL TRIBUNAL – The Government may be notification in the official gazette, constitute one or more National Tribunal for adjudication of industrial disputes –
   1. Involving industrial disputes of national importance
   2. Which are of such a matter that industries in more than One State are likely to be interested in or affected by such disputes.

   When a dispute is referred to National Tribunal, no Labour Court or Tribunal will have jurisdiction to adjudicate upon any matter, which is under adjudication before a National Tribunal and any reference pending before a Labour Court or an Industrial Tribunal in so far as it relates to such a matter will be void.

   Non-availability of the required data has made the study of the working of adjudication machinery very difficult. However, on the basis of the responses, it can be concluded that the working of this system has been ineffective and processes lengthy and cumbersome.

DIRECT NEGOTIATION- MOST FAVOURABLE METHOD

In the units under study if we compare conciliation and adjudication, workers favour conciliation most because of the simplicity and promptness of the procedure. It is only when conciliation proceeding fail then the matter can be taken up for adjudication. Adjudication is the least acceptable method. Among mutual settlement methods bi-partite negotiation is most favoured. The method of setting disputes by voluntary arbitration is not at all popular. Table 6.4 shows that for the settlement of dispute the method of bipartite negotiations have been more popular. 44.95% worker has given their opinion that collective bargaining is the best method, which they want to use at the time of the bargaining of any dispute. The next most acceptable method is conciliation. 32.23% workers are in favour of this method. 13.59% workers have given their opinion in favour of Adjudication whereas only 9.23% workers are in favour of arbitration.
WHY ADJUDICATION DISFAVOUR ED

Adjudication proceedings are not yet popular because of certain inherent defects. Workers always look upon the courts as a weapon available to the employers because by its history and structure it tends to favour the employers. Judges are drawn from mostly from the upper or middle class and naturally and inevitably are affected by the economic and social outlook of their class. Also it is time consuming and expensive. Moreover, if management losses in court it takes revenge in some or the other manner. National Commission has observed, “On the procedural plane we were told that adjudication is dilatory, expensive and even discriminatory --- On the fundamentals, the objections are that the system of adjudication has failed to achieve industrial peace, that it has inhibited the growth of unions and has prevented voluntary settlement of industrial disputes and growth of collective bargaining. We are of the view that while there are certain procedural deficiencies in the present system which need to be remedied, there is some substance also in each of the fundamental objections mentioned above against the system.22 Other reasons why workers disfavour adjudication system are –

1. Industrial matters require urgent attention but inevitable and inordinate delays create frustration and discontentment and in some cases actually defeat justice.
2. Adhoc tribunals lacks permanency and continuity
3. Chances of partiality and political maneuvering are also possible
4. Adjudication is expensive, therefore, enhances the bargaining strength of the employers and
5. Lack of adequate information about the questions arising in such cases.

It is for these reasons that the system has been criticised by many. In our country where the bargaining power of labour is not strong due to mass illiteracy among workers, extreme poverty and multiplicity of unions, collective bargaining issues can not be left to chance. Therefore, provision for conciliation and adjudication is essential.

### Details of the Responses of the Workers

<table>
<thead>
<tr>
<th>Name of the Unit</th>
<th>Adjudication</th>
<th>Conciliation</th>
<th>Collective Bargaining</th>
<th>Question</th>
</tr>
</thead>
<tbody>
<tr>
<td>Usha Telehost Limited</td>
<td>185 (32.23)</td>
<td>53 (9.23)</td>
<td>78 (13.95)</td>
<td>2 (18%)</td>
</tr>
<tr>
<td>Usha India Limited</td>
<td>16 (169)</td>
<td>5 (57.14)</td>
<td>8 (82.70)</td>
<td>1 (11.11)</td>
</tr>
<tr>
<td>Thomson Press India</td>
<td>7 (7)</td>
<td>6 (69.57)</td>
<td>10 (100)</td>
<td>1 (10.37)</td>
</tr>
<tr>
<td>Sunbeam Castings Limited</td>
<td>7 (7)</td>
<td>9 (51.93)</td>
<td>10 (100)</td>
<td>1 (11.11)</td>
</tr>
<tr>
<td>Polar Industries Limited</td>
<td>17 (17.24)</td>
<td>4 (44.44)</td>
<td>6 (57.14)</td>
<td>1 (11.11)</td>
</tr>
<tr>
<td>K.G. Khosla Limited</td>
<td>2 (2)</td>
<td>6 (69.57)</td>
<td>20 (22.22)</td>
<td>1 (11.11)</td>
</tr>
<tr>
<td>Hero Honda Limited</td>
<td>28 (28)</td>
<td>35 (30.43)</td>
<td>48 (44.12)</td>
<td>2 (24.44)</td>
</tr>
<tr>
<td>Escorts Limited</td>
<td>35 (35)</td>
<td>7 (70.37)</td>
<td>1 (11.11)</td>
<td>1 (11.11)</td>
</tr>
<tr>
<td>Eicher Tractors Limited</td>
<td>19 (19)</td>
<td>8 (88.89)</td>
<td>16 (160)</td>
<td>1 (11.11)</td>
</tr>
<tr>
<td>Clutch Auto Limited</td>
<td>1 (1)</td>
<td>19 (19)</td>
<td>16 (160)</td>
<td>1 (11.11)</td>
</tr>
<tr>
<td>Bharti Ciliter</td>
<td>7 (7)</td>
<td>7 (86.9)</td>
<td>1 (11.11)</td>
<td>1 (11.11)</td>
</tr>
<tr>
<td>Bata India Limited</td>
<td>11 (11)</td>
<td>2 (22.22)</td>
<td>6 (10)</td>
<td>1 (11.11)</td>
</tr>
<tr>
<td>Atlas Cycles Limited</td>
<td>9 (9)</td>
<td>2 (22.22)</td>
<td>6 (10)</td>
<td>1 (11.11)</td>
</tr>
<tr>
<td>Asea Brown Boveran</td>
<td>4 (4)</td>
<td>2 (22.22)</td>
<td>1 (11.11)</td>
<td>1 (11.11)</td>
</tr>
</tbody>
</table>

**Note:**
1. Figures given in parentheses indicate percentage.
2. Total workers interviewed - 574.

**Source:** Computed from the responses received from the workers of different units under study.

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**Table 6.4**
OBSERVATIONS AND RECOMMENDATIONS

1. In the foregoing pages it is noticed that preventive and curative machinery does exist at the State level to deal with the problems of industrial disputes, but generally their working has not been as satisfactory as it should have been. Also the management should develop a mechanism to know the problems of the workers and their underlying causes and should try to remove them expeditiously. Some time limit may also be fixed for the adjudication proceedings to be completed. The Government should either set up separate conciliation machinery or should increase the number of conciliation officers. Similarly the number of Labour Courts should also be increased so that disputes may be solved quickly. Above all the Personnel Department should be quite alert and should endeavour to nip the matter in the bud.

2. Voluntary arbitration should be emphasised upon in the settlement of industrial disputes. The parties should be allowed a minimum period of 2 months to reach a settlement of dispute through negotiations and another 2 months for conciliation proceedings, if negotiations fail. If both of these means fail, the matter should then go to arbitration. The parties must exhaust all means of settling their disputes before approaching for adjudication or resorting to any direct action. For making arbitration effective and useful the persons selected as arbitrators should be of high integrity with no leanings towards any party, a person of upright character in whom the parties may have absolute faith and a person of mature experience and having some legal knowledge about the industrial relations while giving decision, the arbitrator should take in to consideration the following points –
   a. Decisions should be based on some principle,
   b. It should be workable
   c. It should be based on the approach “Split the difference”

3. The employers of the units have often indulged in to unfair practices like threatening the employee with discharge or dismissal if they join a union, threatening a lockout if a union is formed, granting a wage increase at crucial period of trade union organisation with a view to undermining the efforts of the union at organisation, refusing to promote an employee to higher post on
account of his trade union activities or giving unmerited promotions to any employee with a view to creating discard among other employees or undermine the strength of the union.

The employees on their part, indulge into such practices like refusing to work overtime when exigencies of service require performance of overtime work, encouraging or instigating slowing down of production in order to compel the employer to accept the demands of the employees or any section thereof striking members of a trade union to picket non-striking employees to debar the latter physically from entering the work place and refusing to negotiate collectively in good faith with the employer and dishonour an agreement entered into the course of negotiations or conciliation.

These unfair practices on the part of both parties should be restricted by imposing penalty on the offenders and persuading them to adopt fair practices in consonant with the requirements of the Labour Code. Labour Court should be the appropriate authority to deal with the complaints relating to unfair labour practices.

4. Another area which has rather remained neglected is that of a proper grievance procedure. It is suggested that statutory backing should be provided for the formulation of an effective grievance procedure, which should be simple, flexible, less cumbersome and more or less on the lines of present Model Grievance Procedure. It should be time bound and should have a limited number of steps say, approach to the supervisor, then the departmental Head and thereafter a reference to the Grievance Committee consisting of equal members of management and union representatives.

5. Management should honour all agreements and enforce them without allowing much time lag.

6. If there is any change in the conditions of service then a notice of 21 days duration about the proposed changes to be given by the employer. Such notice should be necessary while making changes in the conditions of service of employees in respect of hours of work and rest interval, withdrawal of any customary concessions or privilege or change in usage or any increase or reduction in the number of person employed in any occupation, process or department or shift. However, no notice need be given if the change is effected under a settlement or an award or with the consent of the employees.
Finally, in bringing about a change in the outlook and attitudes of the employers and the employees, the Government is also required to play a constructive role in a matter that it does not assume the role of a super arbitrator of fortunes of both employers and employees but it adopts the role of their friend, philosopher and guide.

It can be summed up with this that it need be realised by both parties that their interests are inextricably inter-woven in the industry they work and therefore, instead of depending on outside help i.e. the State or any political party, they have to help themselves and there lies the solution of the problems of industrial harmony.