Chapter VIII

Practices of Arbitration and Adjudication in RSP
In this chapter the procedure and practices of Arbitration and Adjudication method for the settlement of industrial disputes is examined. The researcher tries to analyse the practices of arbitration and adjudication in RSP.

8.1. Arbitration

Arbitration is a means of securing an award on a disputed issue by reference to a third party. It is a recognised method of state intervention to secure a peaceful settlement of industrial dispute. It is a means of securing an award on a conflict by reference to a third party. It is a process in which a dispute is submitted to an impartial outsider who makes a decision which is usually binding on both parties. Arbitration is a process where there is hearing and determination of cause of conflict between the parties. Thus, it is the settlement of industrial disputes between two or more parties by means of a decision of an impartial body in cases where efforts towards conciliation have failed. It is a judicial process. The award of the arbitrator rests on equity and justice; i.e. there is no scope for compromise.

Voluntary arbitration is one of the most favoured methods and forms an important aspect of labour policy of Government of India. The various plans have emphasised the need to encourage this method in order to minimise Government intervention. The Industrial Disputes Act, 1947 makes a provision for joint reference of disputes to voluntary arbitration. But apart from the statutory arrangement, a

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1 Section 10-A of I.D. Act, 1947.
good deal of emphasis is placed on the method in official pronouncements.\(^1\) The Indian Labour Conference (1962) reiterated the need for a wide acceptance of voluntary arbitration. Voluntary arbitration was further stressed in the Industrial Truce Resolution, 1962. The Government has taken some vigorous steps in the form of campaign, persuasion of employees, preparation of list of arbitrators etc. To make voluntary arbitration more acceptable to the parties and to co-ordinate efforts for its promotion the Government appointed in July, 1967 a National Arbitration Promotion Board with a tripartite composition.

8.1.1 Types of Arbitration

Arbitration agency may be established either by the Government or by the interested parties themselves. The interested parties may persuade an impartial outsider to arbitrate upon the issues concerned. The former is known as compulsory arbitration and the later is known as voluntary arbitration.

8.1.1.1 Compulsory Arbitration

Compulsory arbitration is one where the parties are required to arbitrate without any willingness on their part. When one of the parties to an industrial dispute feels aggrieved by an act of the other, it may apply to the appropriate Government to refer the dispute to an adjudication machinery. Such reference of a dispute is known as "compulsory" or "involuntary" reference. When a dispute is referred to

compulsory arbitration, it is entirely the discretion based substantially upon objective
text of the appropriate Government on the question of existing or apprehending
industrial dispute in a particular establishment. Compulsory arbitration implied that
the Government submits the case to an authority for adjudication and enforces its
awards on the parties. Thus compulsory arbitration imparted compulsory attendances
on witnesses, compulsory powers of investigation and compulsory enforcement of
awards, with penalties for breaches of these awards. The compulsory arbitration has
been discussed by the researcher in the foregoing part of this chapter.

8.1.1.2 Voluntary Arbitration

Voluntary arbitration as a method of resolving industrial conflicts came
into prominence with the advocacy of Gandhiji of its application to the settlements of
dispute in the textile industry of Ahmedabad. The Industrial Dispute Acts seeks to
secure and ensure industrial peace mainly through compulsory adjudication. That
scheme refers the settlement on compulsory state intervention as final arbitration.
This is criticised on many grounds. The International Labour Organisation also
criticises emphatically such schemes. Perhaps influenced by such criticisms, the
device of voluntary arbitration was recommended in 1951. However, the suggestions
could be given legal recognition only in 1956 by inserting section 10A by the 1956
Amendment in the I.D. Act, 1947. When the case referred to conciliation machinery
fails, under such circumstances, the disputing parties may agree by mutual consent to
refer the dispute to be determined by an impartial and disinterested person whose
decision they agree in advance to accept as final and binding. The process is called voluntary arbitration.

8.1.2 Arbitration Practices in RSP

In RSP, during the period of study, no case was referred to arbitration. It is due to the following reasons.

(i) Arbitration is a judicial process where the procedure is closed by a decision and it is binding on the parties. There is no scope for compromise. The parties can not go to Higher courts for justice. The matter is closed once the decision is given by the arbitrator. So the parties are not interested to refer the conflict to arbitration. According to the view of one of the Personnel Manager of RSP, as there is no scope for compromise and the decision of the arbitrator is binding on both the parties, the management of RSP is not interested to refer the dispute to arbitration. The fact that in law, no appeal is competent against an arbitrator’s award.

(ii) It is a process in which a dispute is submitted to an impartial outsider mutually agreed between the parties to dispute. To get an impartial outsider who will be mutually agreed between the parties is a very difficult task. As per the view of some of the union leaders, it is not possible to appoint an impartial outsider as arbitrator. Any-body, who will be chosen by the trade union will not be acceptable to the management and vice-versa. There is dearth of suitable arbitrators who command the confidence of both parties.
(iii) Another reason is the easy availability of adjudication in case of failure of negotiation.

However, as viewed by some of the union leaders, if a suitable arbitrator who commands the confidence of both parties will be available, then the union may prefer to refer the cases to arbitration.

8.2 Adjudication

On the failure of conciliation, if the parties to the dispute do not opt for voluntary arbitration to settle their disputes, the ultimate legal remedy for the unresolved dispute is to refer to a third party appointed by the Government. Adjudication involves intervention in the dispute by a third party appointed by the Government for the purpose of deciding the nature of final settlement.

Even though the policy makers in India after independence highlight the virtues and importance of collective bargaining, the Government of India in practice has retained ultimate control over terms and conditions of employment through compulsory adjudication as the last resort. The rational behind this is that a developing nations like ours can never afford to suffer from the loss of production due to strikes and lockouts. Further the lack of confidence in the responsibility of trade union also resulted in this difference between theory and practice. Since responsible trade unionism, has not taken root in the country, compulsory adjudication became inevitable as a main method. It is alleged that collective bargaining brings about inflation and hence the necessity for intervention by the Government is felt.
Advocates of this method argue that in a planned economy the entire initiative for the settlement of industrial conflicts should not be left to the voluntary efforts of the parties.\(^1\) Adjudication has largely succeeded in maintaining some measures of industrial peace in the country and industrial relations would have been worse, and strikes and lockouts would have been more in number in the absence of this method.

The compulsory adjudication system embodied in the Industrial Disputes Act, 1947, provides an ultimate opportunity for parties to an industrial conflict to seek justice when they fail to settle their dispute in conciliation. While conciliation has a touch of informality adjudication is characterised by a strictly judicial approach.\(^2\) Being imposed on the parties, it connotes intensification of differences and hence parties meet in the court as enemies and not as partners in the industrial relations system.\(^3\)

### 8.2.1 Adjudicatory Machinery

The Industrial Disputes Act, 1947, created a special set of machinery for dealing with industrial disputes. When a matter comes within the jurisdiction of any of the authorities created by this Act, such authority does not deal with the matter within the limits of the ordinary law and the terms of existing contract: it can travel beyond such limitations. It will decide what is fair for both having regard to principles

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of social justice and can enforce such decisions even if it means creating new rights and obligation.¹

Generally on getting a report for the failure on conciliation, the Government has to decide whether it would be appropriate to refer the dispute to adjudication. When both parties agree to refer the dispute, of their own accord, to adjudication, it is obligatory on the part of the Government to make reference. It is called “Voluntary Adjudication”. When reference is made to adjudication by the Government without the consent of either or both the parties to the dispute it is known as “compulsory Adjudication”. Government can make or refuse to make a reference of an existing or an apprehended industrial dispute to the adjudication machinery for adjudication.²

The Industrial Disputes Act envisages three kinds of courts. They are (i) Labour courts, (ii) Industrial Tribunals, and (iii) National Industrial Tribunals. All these bodies get jurisdiction only on a reference under Section 10 of the Industrial Disputes Act, 1947.

8.2.1.1 Labour Courts

Section 7 of the Industrial Dispute Act, 1947, empowers the appropriate Government to constitute labour courts by notification in the official gazette. The Government may constitute one or more Labour Courts for the purpose of

² Section 10 of Industrial Disputes Act, 1947.
adjudicating matters referred to it. Labour courts will consist of only one person. Such a person (a) is or has been a judge of the High court; or (b) has been for a period of not less than 3 years a District judge or (c) has held any "judicial office" in India for not less than 7 years; or (d) has been the presiding officer of a Labour court constituted under any Provincial Act or State for not less than five years.

Jurisdiction of the labour court begins from the order of reference under Section 10(1)(c) when made by the Government and under section 10-A with mutual consent of the parties. The jurisdiction continues till it makes an award which becomes enforceable. The Labour Court can decide matters specified in Schedule II and any other matter not specified in Schedule III.

8.2.1.2 Industrial Tribunal

Under Section 7-A introduced by 1956 amendment, the appropriate Government is empowered to constitute a Tribunal for a limited period, or for a particular case or a number of cases as for a particular area. The appropriate Government may by notification in the official gazette constitute one or more Industrial Tribunals. The Tribunal so constituted shall be one person only and such a person (a) is or has been a judge of the High Court, or (b) has for a period of not less than 3 years been a District Judge or an Additional District Judge.

1 See the Annexeure-I.
2 See the Annexeure II.
The jurisdiction of the Tribunal is dependent upon the application of section 10(1)(d) of I.D. Act, 1947, which empowers the appropriate Government to refer industrial disputes or any matters appearing to be connected with or relevant to such disputes, relating to any matter specified in schedule II or III to industrial tribunals for adjudication. Hence the issue referred for adjudication must involve an industrial dispute as defined in Section 2(k) as such or any matter connected with such industrial dispute. The Tribunal also bears complaints made under Section 33-A, and 33(2)(b) of the Industrial Dispute Act, 1947.

8.2.1.3 National Industrial Tribunal

A National Industrial Tribunal can be constituted by the Central Government by notification in the official gazette for adjudication of industrial disputes of national importance, or those involving industrial establishments situated in more than one state. Under Section 7B of the I.D. Act, 1947 the National Tribunal shall constitute of one person only who is or has been a judge of the High court. The Government may appoint two persons as assessors to advise the National Tribunal in the proceedings before it.

When a case is referred to the National Industrial Tribunal, any proceeding pending before the Labour Courts or the Industrial Tribunal which involves any issue so referred to the National Tribunal are automatically transferred to the National Industrial Tribunal. Pending adjudication by the National Tribunal no
Government can refer any matter relating to the pending proceedings to any other adjudicatory body.

8.2.1.4 Superior Courts

Labour courts and Industrial Tribunal is a part of the judicial pyramid in India. At the state level, labour courts and Industrial Tribunal fall within the writ jurisdiction of the High Court. At present the award of a Labour Court or Industrial Tribunal is final but this finality does not operate as a bar to the jurisdiction of the High Courts under articles 226 and 227 of the constitution. An application under article 226 or 227 of the Constitution praying for a writ in respect of a dispute referred to a Tribunal is treated as a Civil Proceeding. It is possible, therefore, to appeal to the Supreme Court under article 133 against a decision of a High Court under the above two Articles. Under Articles 132 and 136 of the Constitution, decisions of Labour Courts, Industrial Tribunals and High Courts are subject to the appellate jurisdiction of the Supreme Court. Moreover, the life of a case does not necessarily come to an end by making an award by the adjudication. So when an award is not acceptable to either party, a writ petition for stay of an award can be filed in the High Court or a special leave can be obtained to file an appeal in the Supreme Court. When the parties go to either High Court or Supreme Court, it consumes a considerable time.

2 Ibid. P. 233.
8.2.2 Legal Procedure of the Adjudicatory Machinery

No fixed and prescribed procedure has been laid down under the Industrial Disputes Act, 1947. Section 11(1) of the Act leaves it to the authority concerned to follow such procedure as he may think fit. A Labour Court, an Industrial Tribunal or a National Tribunal follows the procedure laid down by the appropriate Government, and, in matters not covered by the Act or Rules, it is free to regulate its own procedure in conformity with the broad principles of national justice.

8.2.2.1 Reference of Disputes

The process of adjudication starts with reference of the disputes by the Government to Labour Court or Industrial Tribunals or National Tribunal. The reference is done by the Orissa Government under Section 10(1) of the Industrial Disputes Act after considering the failure reports of the conciliation officers. The power of reference is exercised by the Government in case of collective disputes and has been delegated to the Labour Commissioner, of course, after formal approval of the Orissa Government, in case of individual disputes. Though reference is at the discretion of the Government but before making a reference to the Labour Court/Industrial Tribunal, the Orissa Government applies the following tests for satisfying itself that the disputes merit reference for adjudication.

(i) whether the dispute is a genuine industrial dispute;
(ii) whether it has been raised by a substantial number of workers; and
(iii) whether it is covered by the provision of an earlier agreement, settlement or award.

8.2.2.2 Procedure for Proceedings

Rule 10-B of the Orissa Industrial Dispute Rules, 1959, as amended in the year 1986 lays down a procedure for proceedings before a Labour Court or Industrial Tribunal.

Pre-hearing Procedure

Service of Notice - When a reference is made to the Labour Court/Tribunal, the very first step of the Presiding Officer is to serve notice to the concerned parties for nominating persons to represent them and to file statement of claim complete with relevant documents, list of reliance and witness with the Labour Court/Tribunal within 15 days of the receipt of the order of reference and also forward a copy of such statement to each one of the opposite parties involved in the dispute.¹ A workman or an employer may appear before the Tribunal in person, or through authorised agents, or through the trade union to which he belongs or office(s) of such an association. Representation through legal practitioners is also permissible with the consent of the other party and the Tribunal.

Filing of Statement of Claims and Counter Claims - After receiving the notice served by the Labour Court/Tribunal, parties files their statements and counter

¹ Rule 10-B(1) of Orissa I.D. Rules, 1959.
statements in respect of the issues made in the reference within 15 days from the date of first hearing and simultaneously forward a copy thereof to the other party for their comments on the claims made by each party. The court or Tribunal shall fix the first hearing on a date not beyond one month from the date of receipt of order of reference.¹

The party raising a dispute may submit a rejoinder if it chooses to do so to the written statement(s) by the appropriate party or parties within a period of 15 days from the filing of written statement by the latter.²

**Replication and Framing of Issues** - In replication, answers by either or both the parties of the queries of each party will be sought. After replication, the presiding officer will decide and will frame issues involved in the dispute.

**Recording of Evidence** - Labour Court/Tribunal shall fix a date for evidence within one month from the date of receipt of the statements, documents, list of witnesses etc. which shall be ordinarily within 60 days from the date of which the dispute was referred for adjudication.³ Each party will submit its own evidence, documentary or otherwise, in support of their contentions in respect of the issues framed. A Court or Tribunal is not bound by the requirements of the Evidence Act, and it may, therefore, rely on evidence gathered otherwise than in the course of it, formal proceedings, provided the person against whom the evidence is relied on is given

¹ Rule 10-B(2) of Orissa I.D. Rules, 1959.
adequate opportunity to rebut that evidence. Certain specified matters placed before a Court or Tribunal in the course of its proceedings must not be disclosed except for the purpose of the matter under reference or certain other prescribed purposes.

Post Hearing Procedure

Arguments and Cross-examination—After recording of physical and documentary evidence given by the parties, arguments and cross-examination of witnesses will start. The date of hearing shall be fixed for arguments/oral hearing, which shall not be beyond a period of 15 days from the close of evidence.1 The reference is heard from day-to-day, and adjournments may be allowed in the prescribed manner. The Labour Court or Tribunal shall not ordinarily grant an adjournment for a period exceeding a week at a time but in any case not more than three adjournments in all at the instance of any one of the parties to the dispute. However, the Labour Court or Tribunal for reasons to be recorded in writing grant an adjournment exceeding a week at a time but in any case not more than three adjournments in all at the instance of any one of the parties to the dispute.2 A Tribunal may decide a reference ex-parte if a party fails to appear before it without showing sufficient cause for the absence.3

Giving of Award - A Labour Court or an Industrial Tribunal is required to complete proceedings as expeditiously as possible and submit its award to the appropriate Government for publication. The Labour Court or Tribunal shall submit its award to

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1 Rule 10-B(7) of Orissa I. D. Rules, 1959.
3 Rule 10-B(9) of Orissa I. D. Rules, 1959.
the state Government within one month from the date of oral hearing/ arguments or within the period mentioned in the order of reference, which ever is earlier.¹

In respect of reference under Section 2-A of the I.D. Act, the Labour Court or Tribunal shall ordinarily submit its award within a period of three months: provided that the Labour Court or Tribunal may as and when necessary, extend the period of three months and shall record its reasons in writing to extend the time for submission of the award for another specified period.²

The appropriate Government publishes the award within thirty days and the award becomes operative after thirty days from the date of its publication. Once published, an award becomes effective after the lapse of the specified period and remains in force for a period of one year, or a shorter period, or a total period of three year (extended one year at a time), as the appropriate Government may direct, and thereafter it continues to be operative so long as a party to the award does not terminate it by issuing a notice to the other party in the prescribed manner. The appropriate Government may, or its own motion or an application by an aggrieved party, refer an award to the Tribunal concerned for reconsideration, if the Government is satisfied that there has been a material change in circumstances since the award was made, and the decision of the tribunal in this matter is final.

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¹ Rule 10-B(10) of Orissa I.D. Rules, 1959.
8.2.2.3 Practices of the Adjudication in RSP

Labour Court or Industrial Tribunal follows the rules prescribed by the Orissa Industrial Dispute Rules, 1959 for hearing a case in their court. It is observed by the researcher that the concerned Court/Tribunal follows the procedure as laid down by the Orissa Industrial Dispute Rules, 1959.

On the basis of I.D. Case No.47/1994 before the Presiding Officer, Labour Court, Sambalpur, the researcher tries to analyse the procedure of the adjudication machinery in practice.

Short Recital of the Case - It was a case between the management of SAIL, RSP, the first party and the workman Sri B. Oram being the second party. Sri B. Oram was dismissed from service on the ground of "Habitual Absence from duty without leave" i.e. for 22 days. He was also charged with other unauthorised absence in the previous years. On the basis of the charge sheet No.697/24/PLMJ 10 Dt.16.6.90, the Second Party was directed to submit his written explanation within 8 days from the receipt of charge sheet to Manager, Traffic, the Charge Sheet Officer RSP, SAIL. Sri B. Oram failed to respond within the stipulated period. He was given another opportunity to defend himself from charges before the one man enquiry committee constituted and nominated Sri S.K. Nayak, Deputy Manager PL(M) to enquire into the charges and to submit the report. The workman was also allowed to take help of other co-workers to assist before enquiry committee.
The first meeting for proceeding of enquiry was held on 10.8.90 at 11 A.M. Sri S.K. Nayak, the enquiry officer, Sri D. Maitra, manager, traffic, the presiding officer, Sri B. Oram, the charge sheeted employee were present in the meeting. The first sitting was adjourned because the presiding officer had not brought documents.

Next sitting was held on 14.8.90. On that day, Sri B. Oram was absent and no information was received from him. The third sitting was held on 13.10.90. On that day the Presiding Officer did not turn up. The final sitting was held on 20.10.90. All three members were present. The charge sheet was read over. The workman denied the charges. The statements of workman and Presiding Officer were recorded. There was also cross examination.

The Enquiry Committee gave the report on 4.12.90 and established the charges. On 29.6.91 the workman was issued removal order terminating the services of workman with effect from 29.6.91. The workman applied to the Local Deputy Labour Commissioner against the removal order. The Deputy Labour Commissioner admitted the case as an industrial dispute Case. But as the workman happens to be a concerned workman in I.D. Case No.27/1995 pending disposal before Presiding Officer, Industrial Tribunal, Bhubaneswar, Orissa, approval of said authority required. So accordingly application was sent to Presiding Officer, Industrial Tribunal, Bhubaneswar. Presiding Officer, Industrial Tribunal, Bhubaneswar, approved the action as per order No.18/dt, 16.12.93 in Miscellaneous case No. 28/91.
As the matter in dispute was not settled in conciliation, a failure report was being sent by the local Conciliation Officer to the Government of Orissa. On the basis of the failure report of the conciliation officer, the State Government was satisfied that industrial dispute exists between the management of RSP and the workman Sri B. Oram.

In the exercise of the powers conferred by sub-section (5) of Section 12 read with clause (c) of sub-section (1) of Section 10 of the I.D. Act, 1947, the State Government referred the matter in dispute to the Presiding Officer, Labour Court, Sambalpur constituted by notification of the Government of Orissa in the Labour and Employment Department Notification No.8007 LE dated the 18.7.1985 read with notification No. 13850/LE dt. 3.11.92 for adjudication.

8.2.2.3.1 Pre-hearing Procedure

Service of Notice - After the receipt of the reference order of the dispute the Presiding Officer, Labour Court, Sambalpur served notices to Management, RSP and Sri B. Oram for filing statement of claim complete with relevant documents, list of reliance and witnesses etc. within 15 days of the receipt of the order of reference and also directed the parties to forward a copy of such statement to each one of the opposite parties.

Filing of Statement of Claim and Counter Claims - After receiving the notice, the workman, Sri B. Oram submitted the statement of claim to the Presiding Officer, Labour Court, Sambalpur on 19.7.1995. On 1.8.1995, Management, RSP vide letter
No.8518 PL-IR-C/845/95 submitted the necessary documents i.e. the conciliation file bearing No. PL-IR-C/845/91 to Presiding Officer, Labour Court, Sambalpur. On 29.8.95, Sri S.K. Mohapatra, on behalf of RSP management submitted written statement before Presiding Officer, Labour Court. The purpose of this exercise is to bring on surface the exact points of controversy between the parties. It also provides an opportunity to both the parties to known each others contending points.

**Framing of Issues** - After going through the written statements and various documents the Presiding Officer, Labour Court framed the following issues.

Issue No.1 Whether the domestic enquiry was fair and proper

Issue No.2 Whether the action of the management in terminating the services of the workman with effect from 29.6.91 on the ground of unauthorised absence from 5.3.90 to 12.6.90 is legal or justified.

Issue No.3 If not, what relief the workman is entitled to ?

**Recording of Evidence** - Each party submitted its own evidence in support of their contentions in respect of the issue framed.

8.2.2.3.2 Post hearing Procedure

**Arguments and Cross Examination** - Regarding issue No. 1, the workman gave evidence on 8.2.96. On the same date cross examination by management, RSP was made. Management, RSP declined the first issue. Court went through the various documents and decided in favour of management that the domestic enquiry was fair and proper.
In respect of issue No. 2 the workman gave evidence on 27.5.96. On the same date cross examination by RSP management was made. RSP management declined the second issue. There was sufficient evidence that the terminating the services of the workman was legal and justified. The court was satisfied that the action was legal and justified.

On the matter of issue No. 3, the court decided that the workman was not entitled to any relief.

Giving of Award - Finally on 29.6.96, the Labour Court, Sambalpur gave its award in favour of management, RSP and submitted the award to the State Government. In course of trial, a references passed through four stages, viz, pleading evidence, arguments and judgments.

8.2.2.4 Variations from Usual Procedure

An Industrial Tribunal or Labour Court, is required to complete proceedings as expeditiously as possible and submit its award to the appropriate Government for publication. The reference is heard from day to day, and adjournments may be allowed in the prescribed manner. It is observed that, in practice, adjournments had been allowed by the court a number of times which had caused an unusual delay in the completion of proceedings. It is observed that both the parties had applied to the Court/Tribunal for adjournments on several grounds.
The procedure for adjudication needs to be simplified so that a worker can present his case himself. This would not only make the process economical for those workers who cannot afford lawyer’s fees but also reduce the numerous adjournments that lawyers take for several grounds.

8.2.3 Performance of Adjudicatory Machinery

It is the duty of the adjudicating authorities by Section 15 of the I.D. Act, 1947, to hold its proceedings expeditiously. This section attempts to see in terms of criteria laid down in Chapter III as to how expeditiously the justice has been dispensed by Labour Courts and Industrial Tribunals.

8.2.3.1 Labour Court

The information relating to the cases dealt with the Labour Court, Sambalpur is presented in Table 8.1. The table shows that during the period from 1991 to 1995 the average percentage of settlements to the total number of cases on file have been around 33.08. The percentage has increased from 20.75 percent in 1991 to 40.75 percent in 1995.

Further percentage of cases pending at the end have been 63.89. In other words, the average percentage of disposals has been around 36. The figures show that the percentage of cases pending at the end of the year 1991 was 73.58 and 51.85 in 1995. Thus, the performance of Labour Courts presented a sad spectacle, and it needs greasing. Poor and declining performance in cases of dismissals and removal
Table No. 8.1

Performance of Labour Court, Sambalpur, 1991-95

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Cases at the Beginning of the year</th>
<th>No. of Cases Instituted During the Year</th>
<th>Total No. of Cases on File (N)</th>
<th>Number of Cases Settled (S)</th>
<th>Number of Cases Settled outside the Court or withdrawn or transferred (W)</th>
<th>Pending at the End of the year</th>
<th>Settlement as a Percentage of Cases on File (S/N)</th>
<th>Settlement as a percentage of total number of cases on file minus withdrawn as out of court settlement or transfer (S/N-W)</th>
<th>Percentage of Cases Pending at the end of the year to Total Cases on File during the year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>39</td>
<td>13</td>
<td>53</td>
<td>11</td>
<td>2</td>
<td>39</td>
<td>20.75</td>
<td>21.56</td>
<td>73.58</td>
</tr>
<tr>
<td>1992</td>
<td>39</td>
<td>11</td>
<td>50</td>
<td>19</td>
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<td>30</td>
<td>38.00</td>
<td>38.77</td>
<td>60.00</td>
</tr>
<tr>
<td>1993</td>
<td>30</td>
<td>15</td>
<td>45</td>
<td>12</td>
<td>-</td>
<td>33</td>
<td>26.66</td>
<td>26.66</td>
<td>73.33</td>
</tr>
<tr>
<td>1994</td>
<td>33</td>
<td>23</td>
<td>56</td>
<td>22</td>
<td>-</td>
<td>34</td>
<td>39.28</td>
<td>39.28</td>
<td>60.71</td>
</tr>
<tr>
<td>1995</td>
<td>34</td>
<td>20</td>
<td>54</td>
<td>22</td>
<td>4</td>
<td>28</td>
<td>40.74</td>
<td>44.00</td>
<td>51.85</td>
</tr>
<tr>
<td><strong>Period Average</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>33.08</strong></td>
<td><strong>34.05</strong></td>
<td><strong>63.89</strong></td>
<td><strong>73.58</strong></td>
</tr>
</tbody>
</table>

Source: Compiled from the data Supplied by Legal Cell, RSP
means a huge loss of livelihood to the aggrieved workmen. The poor performance of Labour Court may be attributed to the increasing workload on it which it find difficult to cope with. From the personal opinion given by the Presiding Officer, Labour Court, Sambalpur, it is observed that, the workload of the Sambalpur Labour Court is too heavy.

8.2.3.2 Analysis of the Results Decided by the Labour Court, Sambalpur

The manner of disposals done by the Labour Court, Sambalpur have been presented in table 8.2 for the period 1991 to 1995. It is seen from the table that average percentage of cases decided against workmen have been 91.37. It indicates that, the management of RSP has gone through the correct path or procedure at the time of taking any action against the workmen. The table further shows that during 1991-1995 on average 7.63 percent cases have been decided in favour of workmen.

An average of about 4.74 percent of cases taken to Labour Court have been decided by mutual settlement between the parties. The reason for mutual settlements may be the reaction of parties to long and expensive procedure of the court. However, all the cases dismissed as settled have been in favour of management. It seems that the workmen were not right in causing the disputes.
Table 8.2

Analysis of Results Decided by the Labour Court, Sambalpur, 1991-95.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of applications for which results were available</th>
<th>Percentage of cases decided</th>
<th>Nature of Results (Percentage of Cases)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>In favour of Management</td>
<td>In favour of Workmen</td>
</tr>
<tr>
<td>1991</td>
<td>12</td>
<td>12</td>
<td>00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(100)</td>
<td>(00)</td>
</tr>
<tr>
<td>1992</td>
<td>19</td>
<td>19</td>
<td>00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(95)</td>
<td>(00)</td>
</tr>
<tr>
<td>1993</td>
<td>12</td>
<td>12</td>
<td>00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(100)</td>
<td>(00)</td>
</tr>
<tr>
<td>1994</td>
<td>22</td>
<td>17</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(77.27)</td>
<td>(22.73)</td>
</tr>
<tr>
<td>1995</td>
<td>26</td>
<td>22</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(84.61)</td>
<td>(15.39)</td>
</tr>
<tr>
<td>Total Period Average</td>
<td></td>
<td>82</td>
<td>9 (91.37)</td>
</tr>
</tbody>
</table>

Source - Compiled from the data Supplied by the Legal Cell, RSP.

8.2.3.3 Industrial Tribunal

A Tribunal is not a court, and, therefore, a proceeding before it is not deemed to be a judicial proceeding, unless the law relating to it expressly declares the proceeding to be judicial proceeding for specified purpose. A Tribunal enjoys freedom from the procedural fetters of a court and is capable of reaching the heart of a matter. It is not bound by rules of evidence, so long as it adheres to the broad principles of natural justice. This helps it to arrive at a true view of facts and base its decision on them.
The Orissa Government refers the cases to the Industrial Tribunal, Bhubaneswar. The data in respect of cases dealt with the Industrial Tribunal, Bhubaneswar have been presented in Table 8.3. It is seen from the table that the average percentage of settlements to total number of cases on file has been 19.54. The average percentage to total number of cases on file minus withdrawals transferred and out of court settlement has been 20.55. The overall trend has been increasing. In the year 1991 the percentage of settlement to total number of cases on file was 15.11 and it increased to 34.72 in the year 1995.

Further it shows that on an average 75.68 percent of cases had remained pending at the end of the year. In other words, the average percentage of disposals has been around 24. It may be concluded from table 8.3 that the effectiveness of the Tribunal in terms of settlements effected and speed of the proceedings initiated have not been encouraging.

8.2.3.4 Analysis of Results Decided by the Industrial Tribunal

The manner of disposals done by the Tribunal have been presented in Table 8.4. As shown by the table, the average percentage of awards going in favour of management has been 80.39. The table also shows that the average percentage of award going in favour of workmen is 10.37. The table further shows that the average percentage of disputes being dismissed as settled is 7.93.
Table No. 8.3

Performance of Industrial Tribunal, Bhubaneswar

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Cases at the Beginning of the year</th>
<th>No. of Cases Instituted During the Year</th>
<th>Total No. of Cases on File (N)</th>
<th>Number of Cases Settled outside the Court or withdrawn or transferred (S)</th>
<th>Number of Cases Pending at the End of the year</th>
<th>Settlement as a percentage of total number of cases on file mining withdrawn as out of court settlement or transfer (S/N-W)</th>
<th>Percentage of Cases Pending at the end of the year to Total Cases on File during the year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>45</td>
<td>41</td>
<td>86</td>
<td>13</td>
<td>72</td>
<td>15.11</td>
<td>15.29</td>
</tr>
<tr>
<td>1992</td>
<td>72</td>
<td>28</td>
<td>100</td>
<td>14</td>
<td>73</td>
<td>14.00</td>
<td>16.27</td>
</tr>
<tr>
<td>1993</td>
<td>73</td>
<td>46</td>
<td>119</td>
<td>24</td>
<td>92</td>
<td>20.16</td>
<td>20.68</td>
</tr>
<tr>
<td>1994</td>
<td>92</td>
<td>39</td>
<td>131</td>
<td>18</td>
<td>110</td>
<td>13.74</td>
<td>14.06</td>
</tr>
<tr>
<td>1995</td>
<td>110</td>
<td>34</td>
<td>144</td>
<td>50</td>
<td>87</td>
<td>34.72</td>
<td>36.49</td>
</tr>
</tbody>
</table>

Period Average

|                               | 19.54 | 20.55 | 75.68 |

Source: Compiled from the data Supplied by Legal Cell, RSP
Table 8.4

Results of Application Decided by the Industrial Tribunal, Bhubaneswar, 1991-95.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of applications for which results were available</th>
<th>Number of cases decided</th>
<th>Nature of Results (Percentage of Cases)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>In favour of Management</td>
<td>In favour of Workmen</td>
</tr>
<tr>
<td>1991</td>
<td>14</td>
<td>14 (100)</td>
<td>00 (00)</td>
</tr>
<tr>
<td>1992</td>
<td>27</td>
<td>13 (48.14)</td>
<td>1 (3.7)</td>
</tr>
<tr>
<td>1993</td>
<td>27</td>
<td>23 (85.18)</td>
<td>4 (14.82)</td>
</tr>
<tr>
<td>1994</td>
<td>21</td>
<td>17 (80.95)</td>
<td>4 (19.05)</td>
</tr>
<tr>
<td>1995</td>
<td>57</td>
<td>50 (87.71)</td>
<td>7 (14.29)</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>117</td>
<td>16</td>
</tr>
</tbody>
</table>

Source - Compiled from the data Supplied by the Legal Cell, RSP.

A small number of cases referred to the Tribunal had been persuaded by the parties to their logical end, i.e. of 7.93 percent. It may be concluded from Table 8.4 that in RSP majority of the cases settled in Tribunal are in favour of management. Even the cases dismissed as settled i.e. 13 in total during the period 1991 to 1995 are in favour of management. So it shows that management is following the correct legal procedure at the time of taking any action against the worker.
8.2.3.5 Superior Courts

Though the awards of the Labour Court/Industrial Tribunal are final and cannot be questioned in a civil and criminal court, the Constitution does not confer on them domain entirely independent of the High Courts and the Supreme Court. As already discussed, at the state level, these fall within the jurisdiction of the High court under Article 226 and 227 of the Constitution of India. Under Article 132 and 136 of the Constitution decisions of these Court/ Tribunal are subject to the appellate jurisdiction of the Supreme Court. The study of adjudication may not be appreciated in its proper perspective without taking into account the powers of High Court and Supreme Court to interfere with the proceedings and the decision of the Court/Tribunal.

The life of a case does not necessarily come to an end by making an award by the adjudicator. Resort is taken to a High Court and Supreme Court when an award is not acceptable to either party. All these steps, when undertaken, consume considerable time. In RSP, when the parties are not satisfied with the award of the adjudicator of Labour Courts and Tribunal, they usually go to the High Court or Supreme Court. The Supreme Court cases are dealt with by the Legal Cell of SAIL. But the High Court cases are taken up by the Legal Cell of RSP. As is evident from the Table 8.5, during 1992-93 to 1995-96 192 cases have been instituted in the High Court. Table 8.5 reflects the litigious attitude of the parties, thus, preventing the timely implementation of the awards.
Table No. 8.5

High Court Cases in RSP 1991-1995

<table>
<thead>
<tr>
<th>Year</th>
<th>Pending at the beginning of the year</th>
<th>No. of cases instituted during the year</th>
<th>Total No. of cases during the year</th>
<th>Infavour of Management</th>
<th>Infavour of Workmen</th>
<th>Pending at the end of the year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992-93</td>
<td>98</td>
<td>63</td>
<td>161</td>
<td>55</td>
<td>3</td>
<td>103</td>
</tr>
<tr>
<td>1993-94</td>
<td>103</td>
<td>57</td>
<td>160</td>
<td>50</td>
<td>6</td>
<td>104</td>
</tr>
<tr>
<td>1994-95</td>
<td>104</td>
<td>51</td>
<td>154</td>
<td>54</td>
<td>0</td>
<td>101</td>
</tr>
<tr>
<td>1995-96</td>
<td>101</td>
<td>21</td>
<td>122</td>
<td>41</td>
<td>1</td>
<td>60</td>
</tr>
<tr>
<td>Total</td>
<td>192</td>
<td>200</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Compiled from the data supplied by the Legal Cell, R.S.P.

8.2.3.6 Analysis of Results Decided by High Court

Table 8.6 summerises the orders regarding disposal of disputes by the High Court during 1992-93 to 1995-96. It is seen from the table that an average percentage of cases decided against the workmen has been 95.42. The Table further shows that during the period the average percentage of cases decided in favour of workers has been 4.58. It is evident from the table that most of the cases decided are in favour of management.
### Table No. 8.6

Analysis of Results decided by the High Court, 1992-93 to 1995-96

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of applications for which results were available</th>
<th>Percentage of Cases Decided with Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In favour of management</td>
<td>In favour of workman</td>
</tr>
<tr>
<td>1992-93</td>
<td>58</td>
<td>55 (94.82)</td>
</tr>
<tr>
<td>1993-94</td>
<td>56</td>
<td>50 (89.28)</td>
</tr>
<tr>
<td>1994-95</td>
<td>54</td>
<td>54 (100)</td>
</tr>
<tr>
<td>1995-96</td>
<td>42</td>
<td>41 (97.61)</td>
</tr>
<tr>
<td>Total Period</td>
<td>210</td>
<td>200 (95.42)</td>
</tr>
</tbody>
</table>

Source: Compiled from Data Supplied by Legal Cell, RSP.

**8.2.4 Efficiency of the Labour Courts, Industrial Tribunal and High Courts:**

Besides the number of settlements effected and the cases disposed of every year, time is another indicator of the performance of the machinery. Greater is the time taken to dispense justice, lesser is the advantage and effect felt, and vice-versa. It is in the interest of all concerned that the matters are decided by the Court/Tribunal expeditiously and within reasonable time. What is reasonable time cannot easily be determined. However, Rule 10-A of Crissa Industrial Disputes Rules, 1959, has laid down the time period for the various stages in processing of a
case in Labour Courts and Industrial Tribunal. The cases referred to Labour Courts/Tribunal should be disposed off within a period of 3 months.¹

The detail information relating to time taken by the Labour Court/Tribunal or High Court was not available. So the researcher has attempted to analyse the time taken on the basis of the limited information available from the RSP. It is evident from the records that, even if the Rule 10-A of Orissa Industrial Dispute Rules, 1959 has fixed a time period of 3 months to dispose a case at Labour Court/Tribunal, the time taken by the Labour Court/Tribunal or High Court is more than 3 months. In some cases the time taken is more than 2 years.² Even in some cases more time has been taken by the Court/Tribunal to dispose of the cases. Information given in the Table 8.7, shows evident that, the number of pending cases are increasing year by year. So from this, one can conclude that the time in which a case is being disposed of in Labour Court/ Tribunal is more than one year. It may not be out of place to mention here that delay in cases of reinstatement is tortuous and disgusting for the poor and helpless worker who has lost his employment. The nature of such cases which come up before Labour Court/Tribunal/High Court/Supreme Court demands quick decision of the workman if he is to be protected against unemployment.

¹ Rule 10-A(11) of Orissa Industrial Disputes Rules, 1959.

² To cite one such case : Referred by State Government to Labour Court, Sambalpur. The Case viz, RSP Management Vs. Sri B. Oram. The date of reference was 23rd May 1994 and the date of decision 29.6.96. There are many instances of this kind.
Table No. 8.7


<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Cases at the beginning of the year</th>
<th>Total No. of cases during the year</th>
<th>Results of the Cases</th>
<th>Pending at the end of year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>In favour of Management</td>
<td>In favour of Workmen</td>
</tr>
<tr>
<td>1975</td>
<td>-</td>
<td>55</td>
<td>47</td>
<td>7</td>
</tr>
<tr>
<td>1976</td>
<td>-</td>
<td>37</td>
<td>7</td>
<td>3</td>
</tr>
<tr>
<td>1977</td>
<td>21</td>
<td>26</td>
<td>18</td>
<td>1</td>
</tr>
<tr>
<td>1978</td>
<td>27</td>
<td>21</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td>1979</td>
<td>37</td>
<td>26</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>1980</td>
<td>62</td>
<td>14</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>1981</td>
<td>75</td>
<td>23</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>1982</td>
<td>88</td>
<td>29</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>1983</td>
<td>109</td>
<td>25</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>1984</td>
<td>129</td>
<td>20</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>1985</td>
<td>145</td>
<td>23</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>1986 to 1990</td>
<td>NA*</td>
<td>NA*</td>
<td>NA*</td>
<td>NA*</td>
</tr>
<tr>
<td>1991</td>
<td>84</td>
<td>54</td>
<td>24</td>
<td>2</td>
</tr>
<tr>
<td>1992</td>
<td>111</td>
<td>39</td>
<td>33</td>
<td>1</td>
</tr>
<tr>
<td>1993</td>
<td>103</td>
<td>61</td>
<td>32</td>
<td>4</td>
</tr>
<tr>
<td>1994</td>
<td>125</td>
<td>62</td>
<td>31</td>
<td>9</td>
</tr>
<tr>
<td>1995</td>
<td>144</td>
<td>54</td>
<td>61</td>
<td>11</td>
</tr>
</tbody>
</table>

Total No. of cases during the year = 286

Results of the Cases:

- In favour of Management: 47
- In favour of Workmen: 7
- Settled: 1
- Transferred or withdrawn: 1

Pending at the end of year: 21

Source: Compiled from the data supplied by the Legal Cell, RSP.

N.B. : NA* - Not available.
8.2.5 Reasons for Delays in Adjudication

Delays of law are proverbial. The delays of compulsory adjudication seem to be conspicuous.\(^1\) The proceedings in the Court/Tribunal may sometimes be deferred from a long time when a dissatisfied party seeks scrutiny of inter-locutory order of a Court/Tribunal in Superior Court. In the Superior Courts, it takes time to get decisions, and cases easily remain stayed for three to four years in lower court.\(^2\) The cases of 1994 have been decided in 1996.\(^3\) The investigation and the personal interview taken by the researcher has revealed the following reasons for such delays.

8.2.5.1 Procedural Delays

As observed in earlier pages, the procedure adopted by the Presiding Officers of Labour Court/Industrial Tribunal has been a judicial one. Under Rule 10-B of the Orissa Industrial Disputes Rules, 1959 as amended in the year 1986, time limits have been prescribed for different stages of the proceedings. But these are relaxable on the basis of the discretion of the Court/Tribunal.

(a) Pre-Hearing Delays - On the basis of the personal interview taken by the researcher of Presiding Officer, it is found that considerable delays were made by the parties at the pre-hearing stage in filing their statements. The parties are not filing their statements in due time. It is also observed that as the state Government is not

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\(^3\) Instance given in previous page.
sending the reference order by registered post, the courts are not getting it in time so as to file the statement of claims in proper time. As the Government is also not providing contingencies fund to meet the expenses of sending the notices by registered post, the Court/Tribunal are sending the notices for filing statements of claim by the parties by ordinary post only. So there is no proof whether the parties are getting the notices or not. Moreover this is leading to delay in filing of statements of claims by the parties.

After receipt of the notice by the parties, sufficient time is needed by both the parties to file their statements. On the basis of the personal interview of management and union leaders taken by the researcher, it is observed that, the management as well as the unions are taking much time to file their statements of claim. This is so because they take the necessary legal advice for the purpose.

Further, it is observed that at the time of recording evidence delays have also occurred. Frequent adjournments are demanded by the management and union/workmen. It is also observed that illiteracy, poverty and ignorance of law are some of the main reasons due to which the workmen are not able to comply with the provisions of law.

(b) Post-Hearing Delays - Adjudicator has to depend upon several agencies for the dispensation of justice. For securing the appearance of different parties, the Presiding Officer has to depend upon the postal agencies. As the notices are being sent only by
ordinary post, there is no guarantee that the parties receive the notices at all. Consequently the proceedings cannot be started.

It is also observed that, some times due to financial difficulties, the worker is not able to provide an advocate to plead his case. So in that case the worker is represented by a trade union leader who is hardly conversant with labour laws. So workmen's representative takes much time in seeking necessary counsel in the preparation of his pleadings.

8.2.5.2 Attitude of the Parties

It was revealed in Table 8.7 that the number of disputes instituted year after year has increased between 1975 and 1995. From this it can be concluded that the adjudication system of dispute settlement enjoys more confidence of the disputant parties. But one point which is find out from the incremental tendency of cases before the Court/Tribunal is that it speaks of the litigant attitude of the parties. The information given in Table 8.5 also speaks of the litigant attitude of the parties. The parties, when they are not satisfied with the awards given by the Presiding Officer of Labour Court/Industrial Tribunal, file a writ petition in Superior Courts. The workmen like adjudication for getting justice. They have a hope of getting reinstatement at the hands of the adjudicator.

8.2.5.3 Intervention of Superior Courts

The commencement of actual hearing is deferred for a long time when a dissatisfied party seeks scrutiny of inter-locutary orders of a Court/Tribunal in a High
Court. In RSP it is also observed that a number of writ petition are filed with the High Court (Table 8.5). The High Court sometimes takes more time during which period the adjudication proceedings are stayed.

8.2.5.4 Heavy Work Load

Heavy work load on the part of Labour Court, Sambalpur and Industrial Tribunal, Bhubaneswar also causing delay in proceedings. There are only 3 Labour Courts in Orissa i.e. at Jaypur, Sambalpur and Bhubaneswa. So the workload on these courts are very heavy. There are ten districts under the jurisdiction of Presiding Officer, Labour Court, Sambalpur. There is also no sufficient staff in Labour Court, Sambalpur. It is observed that the staff position is the same as it was 10 years ago.

Presiding Officer of Labour Court, Sambalpur attributed some of the delays to the non-availability of adequate facilities to them. For example, lack of printed forms for serving notices, funds for sending the notices etc. stall their initiative from time to time. The Presiding Officer also complains that, there is also difficulty in getting the reservation of circuit house at Rourkela. So they are bound to adjourn the proceeding of the circuit court to be held at Rourkela.

Presiding Officer of Labour Court, Sambalpur is the Chief Judicial Magistrate. His counterparts are being provided with vehicles even if their area of jurisdiction is only one district. Even the District Labour Officers are being provided

with vehicles by the State Government of Orissa. Whereas the Presiding Officer, Labour Court, Sambalpur is not being provided with a vehicle.

We may sum up by saying that delay in adjudication system is a result of procedure, attitude of the parties and administration.

8.2.6 Implementation of Awards

Awards of Courts/Tribunal have no legal value unless these are published by the Government in official gazette. When it is published but not implemented, it has no value. If a party to an award fails to implement an award, there is provision for prosecuting him in a criminal court; but for enforcing an award, it must be a valid award within the meaning of the statute, and dismissal of an application by a Tribunal/Court is not an award in the proper sense of the term. Non-implementation of awards often results into frustration of the workers and as such timely implementation thereof carries greater significance.\(^1\)

In RSP, it is evident from Table 8.2, 8.4 and 8.5 that awards/orders in the majority of the cases referred to adjudication machinery have gone in favour of management. In those cases management of RSP had already taken the action. So in those cases the awards had already been implemented. But in very few cases the awards have gone in favour of workmen. On the basis of interview taken by the researcher from some of the officers of Legal Cell of RSP, it is found that, the management analyses the award that goes against it seriously. If there is the slightest

chance of winning it in a superior court, then it files a writ petition. It is also revealed that, if there is no chance of getting a favourable verdict in a superior court, then the management implements the award immediately. During the period of study it is observed that all the awards which were in favour of management have been implemented.

To sum up, adjudication machinery has influenced a great deal to maintain industrial harmony in the plant. It has also helped to avert many work stoppages. The National Commission on Labour has rightly observed that, “During the last 20 years, the adjudication machinery has exercised considerable influence of several aspects of conditions of work and labour management relations. Adjudication has been one of the instruments for securing better working condition and allowances, maintaining real wages, standardisation of wages, bonus and introducing uniformity in benefits and amenities. It has also helped to avert many work stoppages by providing an acceptable alternative to direct action and to protect and promote the interests of the weaker sections of the working class, who were not well organised or were unable to bargain on an equal footing with the employers.”

Contrary to these claims, the existing machinery for the settlement of disputes is not only dilatory, but expensive and time consuming. As viewed by some of trade union leaders, the poor workmen of the plant are not able to afford the expenses for adjudication. Some times the union has financed them. They also told that it is a very time consuming process. The large number of disputes pending in the

Labour Court and Tribunal is a matter of great concern. Industrial matters need speedy disposal.

Besides that, overloading the Labour Court and Tribunal with more work than they could handle and excessive reliance upon adjudication machinery than on other methods like collective bargaining, conciliation and arbitration would be time consuming and very expensive.

It is also alleged that the Government policy in continuing compulsory adjudication has hampered the growth of collective bargaining and the healthy growth of trade union movement. Government’s policy is like staring on a long voyage with only a vague idea of the destination and with neither chart nor compass to mark the course.¹

The solution of the problem does not seem to be in total abolition of adjudication, but in shifting to collective bargaining in a phased manner. As stated by the National Commission on Labour, “There is a case for shift in emphasis and this shift will have to be in the direction of an increasingly greater scope for, and reliance on, collective bargaining. But any sudden change in replacing adjudication by a system of collective bargaining would neither be called nor practicable. The process has to be gradual.”² In a democratic system like India, the compulsions of national interests require that state regulation will have to co-exist with collective bargaining.


However, the existing procedure of adjudication should be simplified so that a worker can present his case himself. This would make the process economical and also reduce the number of adjournments that parties take for several reasons. To complete proceedings as expeditiously as possible and submit its award to the appropriate Government for publication, the workload on Labour Courts and Tribunal should be reduced by increasing the number of Labour Courts and Tribunal.

8.3 An Overview

No case is referred to arbitration machinery in RSP. It is owing to the non-availability of an impartial arbitrator and easy availability of the adjudication machinery. The process of adjudication starts with references of the dispute to Labour Courts, Sambalpur and Industrial Tribunal, Bhubaneswar by the state Government. The procedure followed in this machinery consists of pleading, evidence, arguments and judgements. The analysis of the working of the Labour Courts show that the average percentage of settlements is 33.08. The average percentage of pending cases was 63.89. The maximum judgement has gone in favour of management.

The working of Industrial Tribunals revealed that the average percentage of settlement was 19.54. The average pending cases were 75.68 percent. In Industrial Tribunals also maximum number of judgments were in favour of management. A large number of cases i.e. 60 were pending in the High Courts. The Labour Courts, Industrial Tribunals and the High Courts has taken longer time to give awards/orders. The state Government has also taken more time for the reference of the case to adjudication machinery. As the parties have easy recourse to the Superior
Courts a number of cases were filed in the High Courts by the parties, which has delayed the implementation of awards of the Lower Courts.

The delay in adjudication system is a result of procedure, attitude of the parties and administration. It has made the adjudication machinery a not very effective instrument for ensuring industrial peace. The existing machinery for the settlement of dispute is not only dilatory, but expensive and time consuming. The continuing dependence upon compulsory adjudication has hampered growth of collective bargaining and healthy growth of trade union movement.