ABSTRACT
This study was started to assess the extent of delay made in the adjudication of employer-employee disputes by the Labour Court and Industrial Tribunal under the Industrial Disputes Act and labour adjudicating authorities under the Workmen’s Compensation Act and the Payment of Wages Act in the State of Jammu & Kashmir. One of the basic objects of the above said labour enactments is to ensure prompt
determination of cases involving labour and management by the labour adjudicatory authorities established under them by adopting summary procedure as distinct from the cumbersome and technical procedures of traditional courts. The purpose of the study was to find out with the help of statistical and field data whether the object of speedy disposal of labour disputes through special adjudicatory process under the three labour statutes in question has been attained. Further, if the labour adjudicatory authorities had failed to realise the object of speedy adjudication of cases as contemplated under the statutory provisions, underlying cases of the delay were also intended to be brought to light, so that remedial measures could be suggested to make the functioning of labour adjudicating authorities more expeditious and efficacious.

Statistical data collected for the study comprised 331 cases decided by the Labour Court, Industrial Tribunal, Commissioner for workmen's compensation and Authority for payment of wages in the state of Jammu and Kashmir. Field data consisted of information gathered from 388 interviewees comprising workers, union leaders, employers, lawyers and adjudicating officers.
Analysis of the statistical as well as field data reveals that adjudication of labour cases by the labour adjudicatory authorities under the Industrial Disputes Act, the Workmen's Compensation Act and the Payment of Wages Act is not expeditious as envisaged under these enactments. Delay taints the formulation of adjudicative decisions by these bodies in varying degrees. However, the data make it manifest that Labour Court and Industrial Tribunal relatively perpetrate more delay in the adjudication of industrial disputes under the Industrial Disputes Act than the delay caused in the adjudication of cases by the adjudicatory authorities under the Workmen's Compensation Act and the Payment of Wages Act. It would seem that judicial and legal background of the Presiding Officers of Labour Court and Industrial Tribunal under the Industrial Disputes Act and non-judicial background of adjudicating authorities under the Workmen's Compensation Act and the Payment of Wages Act mostly account for this difference. Analysis of statistical data further makes it clear that decisions of labour adjudicatory bodies which are made after fully going through the litigatory process involves more time duration than the cases (for example, consent awards) which do not undergo completely the adjudicatory process. Again, in the cases in which parties are represented by lawyers or by their professional representatives more time is spent than the cases in which parties make self-pleading. Besides,
under the Industrial Disputes Act, Labour Court and Industrial Tribunal spend greater amount of time while adjudicating on reference disputes in comparison to other types of cases (for instance, complaint cases under S.33 - C(2) of Act).

Major cause of prolongation of adjudication proceedings before the labour adjudicatory authorities is the liberal attitude of the adjudicatory authorities concerning granting of adjournment to the parties. Litigant employers seek most of the redundant adjournments. Most surprisingly, statutory limits regarding grant of adjournments by the labour adjudicating authorities are recklessly flouted. Adjudicatory authorities are also unusually lenient towards the employers who deliberately evade their process and adjudicatory proceedings. This also adds to the delay. In addition, existence of only one Labour Court-cum-Industrial Tribunal in the state of Jammu and Kashmir partly explains slow turn out of adjudicative decisions under the Industrial Disputes Act. On the other hand, adjudicating authorities under the Workmen's Compensation Act and the Payment of Wages Act discharge both adjudicative and administrative functions. Clearly, this retards speedy adjudicative decision-making by them.

As mentioned above, statutory provisions have provided for summary procedure for the adjudicative decision-.
making by the labour adjudicatory bodies. But in practice, this procedure has become dilatory and legalistic. This fact is clearly established by huge number of adjournments granted by the labour adjudicating authorities for the adjudication of labour cases in patent violation of statutory limitations prescribed in this behalf. Field evidence also testifies to this fact. Workers and employers, by and large, regard the procedure of labour adjudicatory authorities dilatory, expensive and legalistic. Therefore, the existing procedure is not acceptable to them. They want shorter procedure for speedy decisions. In contrast to the response pattern of workers and employers, only one half of lawyers and adjudicating officers regard the procedure as tardy. One third of lawyers and adjudicating officers consider the existing procedure to be simple and useful. Further, workers and employers generally believe practice of legal representation in the field of labour adjudication protracts the adjudicating proceedings. A good proportion of lawyers also hold the same view. For the purpose of streamlining the existing procedure of labour adjudicatory authorities, workers and employers unanimously and one half of lawyers and adjudicating officers want a summary common procedure code which is to be made applicable to all labour adjudicating authorities.

Another aspect of the study was to ascertain empirically whether the exercise of referral discretion by the government under the Industrial Disputes Act serves any useful
purpose. Analysis of data in this context indicates that exercise of reference discretion by the government is not completely impartial. Workers, employers and lawyers mostly believe that government is influenced by political factors while formulating reference decisions. An appreciable number of workers also think that monetary considerations affect the exercise of referral discretion by the government. As a mark of their disenchantment with the exercise of referral discretion by the government, an overwhelming majority of all the categories of respondents favour that reference discretion should not remain with the government. Principal reasons adduced by the respondents for the abolition of referral process under the Industrial Disputes Act are that it is susceptible to misuse, redundant and delays or denies the availability of adjudicatory remedy under the Industrial Disputes Act. Analysis of statistical data also corroborates the fact that government makes considerable delay while taking decisions for referring disputes for adjudication.

Regarding the higher judicial court's jurisdictions in the labour adjudicatory field, study shows that higher judiciary has greatly sapped the efficacy of labour adjudication as a dispute settlement method. It is clear from the available statistical data in this connection that awards of labour adjudicatory bodies remain pending in the High Court for many years in writ or appellate proceedings.
Similarly, if a labour case goes to the Supreme Court for final disposal, it takes a long period for decision. However, a District Court appears to take less time while deciding on appeals from the directions of the Authority under the Payment of Wages Act in comparison to the time factor involved in the High Court and the Supreme Court. These results of the statistical data have been corroborated by the field evidence also. An overriding majority of workers, employers, lawyers and adjudicating officers points out that lengthy delay made in the higher judicial courts in the disposal of labour cases has rendered labour adjudicatory system counter-productive and unsuitable for determining labour disputes. Most of the workers and employers (and a fraction of lawyers and adjudicating officers also) further divulge that expensive litigatory process in the higher courts is inimical to the interest of working class as it essentially helps the financially strong party to the dispute. Moreover, a preponderant majority of all the groups of respondents stated that judicial courts are not appropriate forums to adjudicate on labour cases because of special character of labour litigation. Therefore, preponderance of opinion of the respondents favours only limited interference of judicial courts with the awards of labour adjudicating bodies and for that too they prefer some mandatory measure to ensure quick disposal of labour cases in the higher courts. In order to make all-round improvement in the labour adjudicatory system,
workers, employers, lawyers and adjudicating officers have almost unanimously impressed on the need for the establishment of separate labour judiciary.

Next, the present study shows that users of labour adjudicatory mechanism accept this method for the resolution of their disputes only as an ultimate remedy and an unavoidable course available to them. They have instinctive liking for voluntary negotiations. They also prefer conciliation to adjudication. In contrast, only lesser number of lawyers (one half) prefer voluntary negotiations to other methods for settling labour disputes. Reasons given by the respondents for preferring voluntary negotiations are that they are a speedy, convenient, simple, inexpensive and informal method of settling disputes. Further, respondents have mainly stated two reasons for the slow progress of negotiated justice in the state of Jammu and Kashmir. These reasons are absence of developed trade unionism as well as lack of healthy trade union movement and illiteracy of the working class. It is, therefore, clear that if appropriate measures are undertaken for the promotion of voluntary settlements between the parties, the need for taking recourse to involuntary adjudication would be only minimal.

Thus, in some measure, the present study is successful in establishing that labour adjudicatory system as it is in operation at present is highly defective remedy for settling disputes and claims of the indigent worker on account
of stupendous delay made in the adjudication of labour cases and resultant cost of litigation involved therein. Rather, it is increasingly becoming an instrument of oppression of the impecunious worker in the hands of resourceful and self-conceited employer. Hence, urgent remedial measures are needed to cut short delay for making the system functionally efficacious and socially relevant. A statutory measure needs to be enacted to specify the period within which labour cases must be disposed of both by the labour adjudicatory authorities and appellate forums (whether higher judicial courts or Labour Appellate Tribunal). Preferably the period for the disposal of cases by the labour adjudicatory authorities should be three months and at the appellate stage it should be six months. Once a labour adjudicating authority is seized of a dispute or claim, it should conduct the proceedings of the case at stretch till the decision of the case. Legal representation needs to be totally eliminated from the field of labour adjudication for minimising delay. A summary procedure code for the labour adjudicating authorities containing minimum requirements of the procedure will help in bringing about uniformity in the procedure of these bodies. Reference power should also be taken away from the government and parties should be directly permitted to avail themselves of adjudication machinery under the Industrial Disputes Act. Next, one more
Labour Court-cum-Industrial Tribunal needs to be set up for the expeditious adjudication of industrial disputes in the state of Jammu & Kashmir. On the other hand, in order to ensure speedy formulation of adjudicating decisions by the Assistant Labour Commissioners, who act as adjudicating authorities under the Workmen's Compensation Act, the Payment of Wages Act, etc., they should be divested of administrative functions and should be required only to discharge adjudicatory functions. Besides, creation of separate labour judiciary may, in a great extent, rectify most of the evils affecting the prevalent labour adjudicating mechanism.