CHAPTER-1
PREAMBLE

1.1 Introduction-

Employer and employee are two counterparts necessary for establishment and success of an industry. Both exist with the mutual help and cooperation. Both should function in their respective limitation, it is expected then they will have good and sweet relations. This limit has been devised and demarcated by various industrial laws so that industrial relations may be maintained and harmony between the two can co-exist. Both should know their respective limits. In other words, they should know their rights and duties provided by various industrial laws. Rights of one be obeyed by the other with corresponding duties.

New industrial relations are at disturbed stage. Glaring example is of emergence of violence at Maruti Suzuki, Gurgaon on 18th July, 2012 at its manager plant, where 100 officers got injured and HR General Manager wad died due to fire.

In every sphere of human activity harmonious relations are essential conditions of social, economic and political development. But the increasing complexity of modern factory system has widened the hiatus between those who manage industry and those who work in it. This gives rise to conflicts in labour management relations, resulting in strikes/lockouts and causes of conflicts are economic and non-economic in nature. Wages, bonus, allowances and welfare facilities are the main economic causes and personal matters, union matters like union recognition, outside leadership; inter-union and intra-union rivalries are the main non-economic causes. It is true that a policy of creative and active collaboration between labour and management results in an improvement in the level of real wages and the working and welfare conditions of the workers in addition to the better fulfilment of interests of the society as a whole. Research in the area of industrial relations, in general, has made available the information and the materials to be designed to promote the sound understanding of labour-management problems and also to evolve suitable techniques of ensuring industrial harmony. In recent years special importance has been attached to the industrial relations in the developing countries. Industrial relations means relations believe relations between workers and management or between their respective organisations.

1 Dainki Jagran dated 12.09.2012
The trade unions are playing a crucial role in helping the workers to realise their real status by inculcating a sense of responsibility and awareness of their importance in the industrial development. In industrially advanced countries collective agreements have proved an effective method to maintain peaceful industrial relations. But in developing countries like ours the problem is serious due to the weak organisations of trade unions. Industrial relations would be cordial if workers and managers work with mutual cooperation having full faith in each other.

In the present research work, some important industrial laws are to be studied in depth and detail with their historical perspectives. These industrials laws affect the relations directly. Some laws have much importance because they regulate the necessities of workmen. Other important laws provide various protections to the employees/workmen. Lastly there are some laws which provide guarantees of welfare and humane treatment.

On the other hand, these industrial laws also provide safety, security and assurance of proper functioning of the industry/establishment. Lastly, these laws also embodies various penalties which can be inflicted on employee or employer on violation of the provisions of these laws so that discipline may be maintained between both the parties with a result of good industrial relations.

Following important industrial laws are discussed here to judge their impact relations of employer and employees.

**THE INDUSTRIAL DISPUTES ACT, 1947**

This is the basic law which embodies various provisions governing Industrial Relations. This statutes protects the interest of employer as well as employees. Salient features of the Acts are produced here in nutshell-

Industry is similar to the Latin word industria. Industria means ‘work’.

‘work’.

Industry means a trade or to manufacture.

Using power or mechanical or chemical in working of establishment.

Organisation or intellectual aids in producing a product.

Provides unique facility of settlement of industrial disputes by way of conciliation in addition to adjudication.

The object is industrial peace.
Economic justice has been ensured.
Justiciable wages structure and timely payment
Supportive of collective bargaining on behalf of employees.

Reference of industrial dispute to the Appropriate Government by
The Labour Cum Conciliation Officer in the form of failure report.

Industrial dispute is referred to Labour Court or Labour Tribunal
for adjudication.

Hence a balance has been tried to be maintained between the
employer and employees.

THE TRADE UNIONS ACT, 1926

It has its object to unite the workmen and to protect their service
conditions and their all interests.

History of Trade Unionism in India – in 1890 an Association of mill
workers came into existence in the named of Bombay Millhands Association. It is
difficult to treat this association as Trade Union in the strict sense in which this
expression is used now-a-days. Very little account is available about its mode of
working. After the First World War price hike was there. The political agitation
against foreign rule was also gaining momentum throughout the country. The increase
in cost of living and country wide political upsurge found its way in economic
discontent amongst masses, particularly in industries. The industries unrest and
economic discontent led to a number of strikes by workers, guided and controlled by
their Action Committees consisting of representatives of workers themselves. On
many occasions these strikes were successful in getting the demands of the workers
fulfilled. The trade union strengthened by the success of strikes in India and the
world-wide uprising of labour consciousness. The establishment of International
Labour Organisation has also influenced the growth to the trade union movement in
our country.

Development of Trade Union Law in India – after independence
democratic spirit was gradually developing among the Indian citizens and the
workmen in industry are not an exception to it.

The Act of 1926 was consequential amended in 1929 providing
appellate provisions in case Registrar refuses to register a Trade Union.
The employer was under no obligation either to recognise or to deal with a Trade Union even if it was a registered one. The Royal Commission on Labour satisfied to give to recognition to representative Trade Unions.

Collective Bargaining – There is long history of Collective Bargaining. This concept is the result of long process. Resultantly this concept was recognised in India. This concept has been recognised in foreign countries also. In collective bargaining the aggrieved employees put their grievance more emphatically, with more force; it is the collective effort of the employees.

In United Kingdom and some other countries the negotiating bodies are functioning at industry level. The third kinds of bodies are functioning in many countries at the unit or undertaking level. They are generally known as works Committee or works council. In some countries they have only advisory powers while in others they have power even to conclude agreements with the management on a limited issue viz. In Pakistan, Belgium, France, Netherland, Norway etc.

True Position in India – The trade unions remained ineffective in the settlement of industrial disputes to the desired extent because the labour is divided and the employers are well organised. Further there is lack of proper labour leadership and the majority of workmen are illiterate and as such unable to participate in mutual discussions. There are a number of labour organisations. These Unions take a stand different from the other on many issues because of their intra-Union rivalry.

The rule of collective bargaining has been given place in I.D. Act, 1947. On a reference of a dispute to the Conciliation Officer, A Conciliation Board is constituted consisting of the representatives of employees and employer with the Conciliation Officer as its chairman. The settlement memorandum having signature of both parties is to be forwarded to the appropriate Government for publication. The main task of the Conciliation Officer is to go from one camp to the other and find out the greatest common measure of agreement...to investigate the dispute and to arrive at settlement of dispute.

THE EMPLOYEES COMPENSATION ACT, 1923

This Act provides economic security to the workmen in case of any mishape. After his death, his dependents are given economic help in the name of compensation. Main features of the Act are-

Social Insurance by way of compensation to employees in case of occurrence of accidents.

Compensation is granted to the native workmen.
In case of his death, to his heirs.

It was as early as 1884, that the question of payment of compensation to employees involved in serious or fatal accidents was raised when the Factory and Mining Inspectors drew the attention of the Government to this human problem which warranted immediate legislative protection of employees. But its importance was realised by the Government of India only at the end of 1920, when public opinion was invited on connected issues. A committee consisting of members of the Legislative Assembly, employers, workers or representatives of workers, medical and insurance experts was constituted. When committee recommended, that Employees Compensation Act was enacted in 1923 which provided for setting up of Tribunals on the American model to decide disputes, appointment of special commissioners with wide powers and a limited right to appeal can be instituted in High Court.

Originally applicability of Act was on employees of certain specified industries, employed otherwise than in clerical capacity; and receiving monthly wages not exceeding Rs. 300. The employees (as defined in the Act) were entitled to compensation from the employer during their employment period with certain reservations to the duration of incapacity and negligence of employee himself. The payment of compensation was mainly dependent upon the incapacity or disablement of employees.

With the progress of time and change in the standards of living in the society the Act has on many occasions been modified so as to benefit greater number of employees and to allow maximum amount of compensation. The Royal Commission on labour paid a tribute to the smooth working of the Act and recommended the extension of the benefits under the Act to a larger class of employees. The result was that in 1948 Employees State Insurance Act was passed. This Act was a substantial improvement over the Employees Compensation Act. The scope of the Employees State Insurance Act is limited but it is hoped that in times to come it will cover the entire field of compensation by replacing the Employees Compensation Act. What is actually intended to be insured by such Acts is the rehabilitation of the employee himself or of his dependants. For the progress of
democratic socialism and its needed impact on the society the socialisation of the needs and miseries of man is as important as the socialisation of the basis of production and wealth.

THE EMPLOYEES STATE INSURANCE ACT, 1948

It embodies medical facility to the workmen. Many important Social Security Schemes had been introduced in our country before independence. The urgency of such Schemes has been more badly felt after World War II. Social security to the workers of an industry was the motive. Social security measures adopted in any country can be said to be dependent upon a number of factors viz. Population, economic resources, standard of living, availability of technical experts and development of industry. The workmen’s compensation Act, through was ready to give social assistance but was incapable of giving social insurance. The Employees State Insurance Act was first of such measures adopted in India to provide for social insurance to the labourers. Many other fields of social insurance like health and unemployment are still left untouched.

The question of providing sickness insurance first came to consider before Government of India in 1928. But the Government did not consider it feasible to adopt any such legislation. The Royal Commission on Labour 1931 also suggested for early adoption of these measures. The question of insurance of invalids, widows, old age and orphans was considered timely by the Government but no Scheme providing for any such benefits was introduced for administrative and financial considerations.

While in conference of labour Ministers took place on January 1940, it was felt that views of the Provincial Government, employers and workers about compulsory contribution of the sickness insurance fund. The second Conference of Labour Minister held in 1941 was of the opinion that any such legislation must be preceded by an actual examination of the problem in certain industries. A year after the Third Conference of Labour Ministers was called for to examine a tentative sickness Scheme.

These welfare activities need to be considerably extended so as to cover workers of every factory, industry, mines, plants and communication, etc. A
definite minimum standard of welfare should be laid down, which has to be observed by all employers.

**THE MINIMUM WAGES ACT, 1948**

The Act fixes the wages as minimum which must be given to the workmen by the employer.

**THE PAYMENT OF WAGES ACT, 1936**

The bill was however, withdrawn on an assurance of the Government that the matter was under consideration of the Government. Imposition of fines by employers on workers and deduction of even double the amount of wages for absence period by way of fine was very much customary in those days, the desirability of regulating the extent of fines and other deductions, through legislation was felt by the Government in 1926.

The Royal Commission on Labour in India made some valuable recommendations. The present Act is mostly based on those recommendations. The Commission was of the opinion that legislation regarding deductions from wages and fine was essential.

**THE FACTORIES ACT, 1948**

The Factory lives of workmen have been ensured with cleanliness, good health, canteen, rest, crech etc. for better life by this Act.

Changes introduced by the Factories Act, 1948 – The following changes were made by the Factories Act, 1948: -

1. **The definition of the term ‘Factory’ was widened to cover all industrial establishments (where power was used-10 workers and where not used-20 workers).**

2. The distinction between seasonal and non-seasonal factories was abolished.

3. Under the Act of 1948 the State Govt. yet can apply this Act to any other establishment also. The only exception is an establishment where the work is done solely by the members of a family.

4. Chapter III of the Act of 1934 was split into three parts, covering health, safety aspect and covering welfare of employees. The Act specifies very clearly the minimum requirements under three heads stated above.
(5) The basic provisions of the old Act relating to health, safety and welfare are applicable to every workplace.

(6) The minimum age of the admission of children to employment has been raised from 12 to 14 years and the minimum permissible daily hours of work of children were reduced from five to four and a half hours.

(7) Licensing and providing registration of factories after scrutiny by Inspector about the plan, building of industry.

(8) Employment of children and women between 7 pm and 6 am is prohibited. For overtime work the workers are entitled to twice their normal rate of wages.

(9) It is empowerment of State Government to frame rules about association of the workers in the management of arrangements for keeping of view of welfare of employees.

(10) Prior approval of the State Government has been made necessary for every new installation of a factory or for the extension of an existing factory. Besides mines, the new Act also excludes railways running sheds as be termed as factories.

THE PAYMENT OF BONUS ACT, 1965

This Act rewards to a sincere employee out of the profit of industry. It is not an ex-gratia payment. Bonus differs from wages in that it does not rest on contract. In our country bonus was for the first time granted to the employees in textile industry in July, 1917 which is known as ‘war bonus’ because an increase in wages was allowed owing to war conditions. The question of payment of bonus had been one of the main causes of industrial disputes during post-independence days. In K.S. Balan and others v. State of Kerala and others, a public sector employer was paying ex-gratia payment to its highly paid employees who were not entitled to get bonus. On Government disapproving such payment the Board of Directors passed a resolution stopping payment in future and seeking to recover the amount, already

paid. The employees challenged the said resolution. The petitioners have no case that the claim was linked with profit or production or connected with any festival. It was held that the claim of petitioners that the payment has become an implied condition of service cannot be accepted.

Following deductions are made before disburtion of bonus-
(i) As per rate of six per cent on paid up capital returns;
(ii) Return on working capital varying from two to four per cent;
(iii) Depreciation worked out on a national basis;
(iv) Rehabilitation; and
(v) Income tax.

If after deduction of these prior charges, surplus was left over the workmen would be entitled to a share in the said surplus on an equitable basis.

Labour unions did not feel satisfied with the Full Bench Formula. Their main grievance was against the rehabilitation charge which, in their view, generally wiped out what was left of the available surplus. Some employers were also not quite happy with this formula because it did not provide an easy method for computation of bonus and often led to disputes year after year.

The Supreme Court, while approving this principle in Muir Mill Ltd. V. Suti Mill Mazdoor Union, 4 put two conditions to be fulfilled for claim of bonus.
(1) The wages fell which are below to living standard;
(2) Huge profits acquired by industry by reason of made by workmen and production was increased.

THE MATERNITY BENEFIT ACT, 1972

This Act was passed with a noble cause of giving respect to the women and to recognise their hardships prior, during and after pregnancy, women have been treated equal as men in terms of wages. Even the absence of a woman labour due to pregnancy will be counted as presence and wages will be continuously earned. Even after delivery. She will be entitled for maternity leave with wages. Moreover, some provisions of more intervals during work have been provided for the care and welfare of her baby. This Act has changed the status of a victim lady into a lady of free

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Country. Provisions of penalty have been incorporated for erring employer so that the Act can be enforced properly.

THE PAYMENT OF GRATUITY ACT, 1972

Reward of continuous service is given to a retired workman by this Act. Although the right of industrial workers to receive gratuity has long been recognised by the Tribunals, yet the law relating to payment of gratuity was very vague and uncertain before passing of the present Act. There was a good deal of disparity in the various schemes for the payment of gratuity. The Supreme Court had made efforts to regulate through judicial decision by laying down principles for grant of gratuity. Salient features of the Act—

- It is retirement benefit.
- Entitlement on serving as unblemished conduct.
- Gratuity is fixed as per last pay drawn.
- It is not a pension.

THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT 1986

Children is care have been raised by UNO and Constitution of India as well. Child labour has been regulated by this Act as well as some prohibition also have been incorporated. Prime features of the Act are—

1/3 population of the world are children.

- The Act has adopted the view of Geneva declaration pertaining to Right of Children in 1924.
- The Act also adopted the view point of Unversed declaration of Human Rights, 1948.
- No child will serve in industry who has below the age of 14 years.
- No young person will work in night hours in an establishment.

A concrete step has been taken through the Declaration about the rights of a child in 1959. The Preamble of the Declaration expresses concern of the International Community for child welfare. The child by due to his physical and mental immaturity requires special safeguard, care. National Governments all over the world have Principles of the above Declaration.

THE EQUAL REMUNERATION ACT, 1976
Fundamental Right of equality has been incorporated in giving remuneration by this Act. It is a noble and modern Act. Salient elements of the Act are:

The principle of equal pay for equal work has place in article 39 of the Constitution.
A dissimilar duty does not attract the principle.
Even daily wages will take same wages equalant to permanent employees provided the duties are same.

1.1.1 History: -

During British Rule in India, the industrial relations were very bad because, the Government was of Britishers. They protected their interest at the cost of labours. There are faring examples of exploitation, inhuman conditions of Labour, low wages, no trade unions of independent nature. Malpractices or unfair labour practices were prevailing. But because the Indian Constitution has preamble of a Welfare State, the attention was given to the terms of employment and health, economic standard of life conditions were given due attention. That is why a vital change appeared in Industrial Relations.

After Independence of India, recognition to industrial relations was given in Industrial Dispute Act, 1947. The Act embodies conciliation a method of settlement of disputes, arbitration and adjudication; it also seeks to prohibit lock-out & strikes.

Industrial Relations policy during the different plan periods of India was as follows: The first five year plan necessitated the industrial peace in industry, the ultimate oneness of interest and the virtue of harmonious relations between capital and labour. The second plan also continued the policy formulated in the previous plan. The third plan stressed more on moral rather than on legal sanction for the settlement of disputes. It laid stress on non occurrence of labour unrest. The fourth plan emphasised for the growth of a healthy trade union movement so that it could secure better labour management relations. Trade union should draw attention towards proper condition of work and living, but should also play for Nation’s development. The fifth plan stressed better enforcement of labour legislation and imparting training to labour officers. Emphasis was also given on strengthening Industrial Relations and conciliation machinery, better enforcement of labour.
legislation. From the sixth plan to eighth plan adequate consultative machinery and grievance procedures were evolved and made effective. Effective arrangement was also made for the settlement of inter-union disputes and to discourage unfair labour practices. It also stressed that collective bargaining should be encouraged. Worker’s participation in management was made. It is a vehicle of transforming attitudes of both employers and employees for establishing a co-operative culture which help in building a strong self-confident and self-reliance country with a stable industrial base.

Thus, with new ideology and thoughts, the relationship between the management and workers has changed from one of ‘master and servant’ to that in ‘joint responsibility’ or equal partners in industry. The whole arena of Industrial Relations has shifted from adjudication to persuasion, moral pressure and settlement of dispute through voluntary arbitration.

In this present chapter, introduction and historical perspective is to be explored of each industrial law one by one for the purpose of clarity and to avoid confusion. There are most important industrial laws which are very necessary to be studied to know the contribution of these laws in maintaining relations between the two, out of which the Industrial Disputes Act, 1947 has unique place in maintaining these relations because it covers many aspects of the employer-employee relationship. During the whole study attempt has been done to see the judicial interpretation of the various concepts embodied in various industrial laws covering latest amendments and latest decisions so that the true relation can be ascertained and advocated.

1.1.2 Critically–

Good industrial relations on the need of the hour. In industries, machines might are working but they are the human beings in the form of employer and employees who are responsible for the proper functioning of an industry. Their cordial relation and co-operation is very much necessary for the purpose of an industry.

Productivity is not merely the ratio of output versus input, but that it involved, in a substantial way, the human element. Productivity does not merely as rationalization or efficiency in only technical terms. Therefore, positive involvement and commitment by labour and unions were thought essential for the success of productivity activities. The three guiding principles in this connection are as follows:

(a) Employer-employee corporation:
To increase productivity, labour and management must co-operate.

(b) Increase of Employment:
Improvement in productivity will increase employment in the long-run.

(c) Fair distribution of the Productivity gain:
The fruits of improved productivity should be distributed fairly among management, labour and consumers.

Joint Labour-Management Consultation system in India is not to replace collective bargaining. Instead that the joint consultation system and collective bargaining have their respective functions to play. For those issue in which the interests of labour and management conflict, such as pay increases, more holidays and shorter working hours, unions negotiations with management normally in collective bargaining. However on matters of mutual interest, such as productivity improvement, safety education and training representatives of both sides sit together and exchange discussion in a constructive way at a joint consultation meeting. The whole idea is to maintain healthy discussion on one side and constructive co-operation on the other between labour and management.

In India the labour-management joint consultation system is providing a ground for better communication within the organization and labour participation. Joint labour-management consultation bodies are to obtain labour unions undertaking of and co-operation in management actions, and to prevent disputes through smooth communication.

One of the basic features of Japanese Society is a profound sense of national unity and shared goals. This group consciousness of group cohesion of the Japanese is opposed to the individualism of the western society.

Prior to the advent of industrialisation the development of human society was from status to contract. But the industrial society all over the world has been moving, particularly today, from contract to status. In modern era, there are various ways to determine the relationship between employers and employees. The employer-employees relations may be broadly categorised into two heads. They are as follows: (a) voluntary regulation system, and (b) legal regulation. Therefore modern
regulation of employer-employees relations has wide coverage of contracts, standing orders, awards and laws.

Therefore sweet industrial relations are required. New a day collective bargaining is playing fruitful role. But if compromise does not take place, various legislations provide the way in solving disputes. This is called judicial (adjudication) method of solving disputes. If both employer and employees are working honestly, there will be no dispute.

1.2 **Problem on hand:**

Disturbed industrial relations is the greatest problem in India resulting thereby strike, lockout, dharna, set ablaze in the industry etc. Manesar Plant of Maruti Suzuki is the glaring example of non-cordial relations between the management and labour where violence and fire took place at the instance of labour on July 18, 2012 causing 100 officers of the company injured and H.R. General Manager Sh. Avanish Kumar Dev was burnt alive. Still the matter is under trial. Various laws governing the industry were violated. Why such incidence take place? The answer is when either management or labour exceeds the statutory limits and clashes take place.

In the era of globalization the focus of management is to get maximum profit by importing fully automatic machines, offering employment to foreign experts and exporting the goods to foreign countries. Moreover even the raw material is imported from the foreign countries just to save money forgetting nationalism. The bad consequences of the above tendency of management will be the increasing unemployment of native labour due to automatic machines, decrease of wages of Indian employees due to offering of employment to foreign experts and when raw material is imported the native raw producing companies suffer loss resulting thereby labour of that companies becomes unemployed hence unrest in the country. Small scale industries have almost closed in the country due to globalization. The instances are Chinese goods are on sale in India at high peak due to its low price. Now industries are fighting for their existence due to cut throat competition.

**As regards other counterpart i.e. labour’s role, it is also defective. Now** a days, where the service of Right to information Act is available, informations through Media are transited and availability of various labour laws are enjoyed, the labour has also become insincere towards their lawful duties rather they keep mens-rea of getting more wages, spread absentism, do lossful and illegal activities under the shelter of Trade Unions, their mentality is to get maximum and give minimum to the
employer without bothering the financial position of employer. In other words, the labour is also exceeding the statutory limits resulting such disharmony in Industrial relations.

The problem of non-cordial Industrial Relation poses many questions such as whether still there is untouched area of their limits where law is silent? Whether the existing provisions of various laws are deficient or defective? Whether existing statutes are impracticable? What are new problems resulted by globalization? Whether judicial decisions have left some issues undecided? Whether political parties are disturbing the industrial relations? Whether amount of wages and other facilities provided to labour are sufficient to cope with price-hike situation? What are the prime causes of distrust between employer and employees? Whether vesting of proprietary interests to the labour will solve the problem? What steps should be taken by the Govt. to solve the problem of sour relations? Whether Trade Unions are discharging their statutory role or playing as puppet in the hands of political parties? WhetherTrade Unions are busy in their inter clashes, also upto what extent they are safeguarding the interests of labour? Who is causing the disharmony in Industrial Relations out of the (Tripartite) i.e. the labour, Capital and the Government?

The time has come to control the causative factors resulting disharmony in industrial relations and at the lawyers, legislator, philosophers and judicial officers are worried to solve the problem. The present study will reveal the root causes of the problem and will also suggest the clear and concrete steps to solve the problem of non-cordial Industrial Relations between Management and Labour.

The term ‘industrial Relation’ (IR) means relationship between the management and the employees of an organisation, that grow out of employment. It seeks to cover the differences that arise between them, how wages and other conditions of work are regulated, what difficulties arise between them and what is the mechanism to solve these and protect the interests of different groups in an Organisation. It signifies two parties: one against the other. It assumes that the man augment and the employees finding themselves in opposition, endeavour to maximise their gains, often at the cost of the other party, by making best possible use of their relative strength and power. It gives the alienation of work force a formal, legalistic political, fighting and contradictory culture. The central values of it are conflict, competition class struggle, bitter negotiations, work-stoppages, compromise or un-ending litigation in labour courts. Even the resolving of industrial disputes proves
only temporary pain-killing measure as IR treats the symptoms and not the disease, IR function, in most of the Organisations has built itself on distancing management from workers. By and large the managements consider trade unions as ‘nuisance’ or hurdle or the least ‘unavoidable nuisance’ or ‘unavoidable hurdle’. On the other hand, the workmen and their unions consider managements as ‘exploiters and unethical’. Behind all, this lies a deep sense of fundamental antagonism between the management and the people it employs.

**NEED OF SHIFT FROM IR TO HRD**

The need of the hour is to shift emphasis from IR to HRD i.e. shift from ‘Conflict of Interests’ to ‘Commonality on Interests’ so that the employees get integrated with the work of organisation and become a part of it. Through HRD, organisational and individual goals can be made compatible. The two can go together; no one at the cost of the other. This requires the management to bring about a change in the attitude of the employees so that they put in their guest to achieve organizational goals, with a greater sense of satisfaction and fulfilment. Japanese have shown that priorities need to be shifted from getting best out of machine or raw materials or finances to getting best out of people. We can profit through human beings and not at their expense, HRD is value-loaded process. Successful organisations look at HRD as investment and not a burden or expenditure, as it promote certain values, defines what is good or bad and acceptable or objectionable.

HRD is the central task of the management as it converts human resources into productive assets. It helps the un-cut diamonds to shine. It makes average person to do superior work. It provides ways to achieve pre-determined objectives, HRD develops team work, improves competence, boosts creativity brings harmony in Industrial Relations. Inculcates sense of discipline, motivates employees, reduces, turnover, lessens absenteeism, lowers overtime costs, leads to fever, grievances, improved communication, better performance, less need for supervision, more intelligent handling of materials, high morale, reduced learning time, change in skills, knowledge, attitudes and perception, reduction in gap between perception and implementation and converts ‘can do’ to ‘will do’. In short, HRD involves shift of priorities from materials to men, from indifference to involvement, from activities to results; from production to productivity; from quantity to quantity and from reactivity to pro-activity.
1.3 **Research Objectives:**

To find out the causes of adverse industrial relations.

To study the existing legislative provisions relevant on various issues affecting industrial relations.

To assess the judicial pronouncements while interpreting such legislative provisions and justiciability of strikes, layout, retrenchments and dismissal etc.

To critically analyse the data bearing various issues.

To find out the solutions in cases of industrial disputes in terms of administrative steps.

To assess the need if any in the legislative provisions to meet out the deficiency.

To discuss the impact of globalisation on industrial relations in India.

To adhere fruitful suggestions for establishing cordial relations between the employer and employees.

In nutshell, the objectives of present research are viz to know the various reasons due to which industrial relations are badly affected, so that if these causes are removed, the sweet industrial relations can be expected. Another objective is to discuss various legislative provisions which govern and dictate rights and duties of employer and employees. In other words what the labour laws of the Country expect from both the capital and labour. Also the researcher is to analyse the judicial pronouncements over various issues such as strikes, lockout, retrenchment and dismissal so that justifiability of above could be known. In addition to it, what is the interpretations of various labour laws qua to the industrial relations in the judicial decisions. Also to analyse the data over many issues so that a conclusion can be drawn on the subject of research. Moreover, it is also be researched that what is the role of administration in solving the disputes between employer and employees. If any other legislative provisions are needed, the same will be suggested. Focus will also be drawn on impact of globalisation on industrial relations. Lastly concrete suggestions will be drawn.
1.4 Scope of Research Work:

So far as scope is concerned it is a study on the causative factors on industrial relations between the employer and employees. Also attempt has been made to extract the solution of the problem. What steps can be helpful in maintaining the harmonious relations between the employer and employees. As per “Cause and effect” theory, if causes are removed which adversely affect the relations then effect convert into cordial relations.

Now both employer and employees should work within their limits so that there may not be any conflict. For determining their limits, various labour laws have been discussed for instance Act relating to industrial disputes, Trade Unions, Minimum Wages, Payment of Wages, Payment of Bonus, Payment of Gratuity, Compensation of Employers, Insurance of Employees, Welfare of Child, Women in a Factory, Child Labour, Maternity benefit, Equal Remuneration, Judicial approach have also been studied on each and every aspect of the topic in hand so that true interpretation of the above legislations and guidelines also can be studied. In addition to it various research done up till now have also been studied and referred at relevant places. So that the extent of the development towards the problem can be assessed.

Problem in global sphere has also been, discussed so that the problem can be determined clearly and can be solved properly. Remedies have also been suggested to tackle the problem. Remedies have been researched to amened the legislations, to implement them as per intention of the framers, good living standard be created for employees and security and conducive environment be given to the employer. Overall all queries which disturb or harmonise the industrial relations have been deal which in a systematic manner to draw the right conclusion.

Further, the results of the NSSO surveys also show that a large number of workers are living below the poverty line. This indicates that the productivity as well as income level of the workers working in various industrial are very poor and require a substantial step up. This possibly is due to the new entrants being pushed into the labour market in the unorganized sector which at present is not able to absorb them. Excess supply of labour is resulting in low productivity, low wages and poor social security. Keeping this in view, the concept of decent work aiming at high quality employment by raising productivity and income level is being advocated in various for a including the international labour Organisation.
Even though it has not been possible to segregate the precise impact of globalisation on economy due to the complexity of multi-variety inter-linkages and there is a need for concurrent empirical enquiry, we have to devise our response on the basis of indicative leads. As agreed to at the last ILC session, globalisation has to be taken as a universally accepted irreversible event. The response has to be such as to meet the challenges of international competition through improvement in productivity and efficiency and at the same time ensure industrial harmony, employment augmentation and reasonable labour standards in terms of welfare, health, safety and sanitary conditions. Striking a delicate balance between growth of economy and generation of employment would require requisite degree of cooperation between the social partners, viz. employers’ and employees’ organizations with the Government playing the role of a facilitator. With a view to have a focused attention, it is intended to confine the discussion on strategy to meet the challenges of globalisation on the employment.

1.5 Hypothesis-

The study of researcher will proceed on the following assumptions-

- Cordial industrial relations are necessary for the benefit of labour, management and the country. It is the demand of time.

- The extent of rights and duties of labour and management be concretized so that harmonious relations can be maintained which is lacking now a days due to which serious conflicts take place between the duos.

- It is realized that labour are more adamant to their rights rather than duties. They have least concern about the economic condition of management. Therefore steps are necessary to be researched to solve this problem, hence unfair labour practice on part of labour to be studied.

- It is also assumed that management is least bothered about welfare, health safety, insurance, minimum wages of the labour rather it is more concentrated on accumulation of capital therefore under the research, the modalities are to be ascertained to curb the unfair labour practices on the part of the management.

- It appears that Trade unions have detracted from their real path. They are busy in doing work against the labour, earning favour money from
the management, least bothered about the rights of labour, quarrelling with another unions, indulging in ugly and active politics therefore some useful methods are to be evolved to get rid of the detraction of such trade unions. Now a days, trade unions have become puppet to political parties and have forgotten their actual duties. Therefore the present study will measure to face the problems.

- The Government is also inactive in discharging its lawful duty. Whenever any conflict arises between management and labour, the Govt. remains silent spectator even death and fire incidents take place in the institutions, therefore causative factors are to be researched and suggestions will be given so that responsibility can be determined of the erring Govt. officials, after all it is a national loss.

- The existing labour laws appear to be defective which is proved from the fact of day to day industrial disputes even of furious nature. Therefore, flaws & deficiency of the provisions are to be located and proposed provisions are to be evolved so that any side (i.e. capital & labour) may not misuse the law.

- The researcher is also keen to study various decisions pronounced by the honorable Supreme Court and High Courts concerning the Industrial Relations. So that the study can reveal the actual position of Industrial Relations existing upto date between management and labour. The researcher will also mention the expectations, suggestions, comments of judiciary concerning management or labour so that harmony may be maintained between the two.

- In the present study, the focus will also be centered on the impact of globalization on industrial relations in India particularly by giving employment to the foreign labour and officials. And research will be proceed to know that whether Indian labour fleeing to foreign country, then why? Results will draw suggestions to critically analyse the impact (good or bad) of globalizations and also to know the milestone to be achieved in future by Indian Industries.
1.5.1 Introduction, Description, Details:

Introduction - when employee is discharges under contract under some unsatisfied reasons, the employee start strike or cause harm to the industry or factory. Employees are based upon the salary of their jobs. But when they are discharged by employer then they feel like they are baseless and will have no money for their future and their dependents. Dependents include wife, their children, father, mother and unmarried minor/major sister or unmarried/married minor brother.

Even an employer can punish his employee in following ways:

1. Power to terminate from service.
2. Punishment (increment/fine).

‘Retrenchment’ means to choose the suitable employees or workmen from the whole. Retrenchment is like ‘termination of service of a workman, who worked in industry. There are other reasons also loading to the retrenchment. If employer gave promotion to the junior worker. Where the senior worker is there in the same job with the junior. Another reason can be that if there will be wrong retrenchment according to the age, that senior worker retrenched from his job, raises voice.

There are some terms and conditions which are fixed for the workers and also explained to the workers before joining and on there satisfactory conditions workmen became ready for the job. Explanations of conditions before joining job like ‘terms of job’, ‘bonus’, ‘rate of wages’, ‘allowances’ working hours, overtime benefit, holiday in months, sickness, promotion timings, dismissal, retrenchment process. After reading these conditions, the workman starts work in industry or work place and later on if employee is denied from the benefits which are supposed to be given to the workman, then the relation between employers and employee becomes adverse.

Transfer means to depart one workman to the another place or exchange one place to another with the another employee and without confirmation or one month notice to the workman. There can be situation in which an employer transfers the workman of any special job to the another job, which he is not desirous to perform that particulars job.

Transfer of an employee, causes much problems for his family. For example; in emergency in his/her home, the employee can’t reach early in home and due to not given medical facility for the needy person, an employee can suffer a huge problem in future. This is also the cause of adverse relations.
If there are fixation of hour to the employee according to the standard time hours and the employer increase the existing hours and without giving extra bonus or holiday then that will cause the type of harm to the workers which resulted in to-
  i. Physical and mantel pain.
  ii. No time for himself and family.

There should be provision of time or fixation of time.

  And also there should be extra charge for the extra working hours. That will give more benefit to the workers. With extra time of the job an employee can fulfil his or his family needs and can provide better education to his children, but if the employer are not paid the extra money for the extra time then the relations between the workers and employers become worst.

There should be provision for the reduction of working hours with this there are some benefits with the reduction of working hours workers health become more good and which generate the extra work.

Work loads depends upon terms and conditions on the workers to fulfil the conditions. Now we are going explain the meaning of work load through an example. For example; if an industry puts conditions on the workers to manufacture 10 machines every day in a given period, such hours are workload.

But there should be provision to reduce the load from the workers. There should be improvement in monthly wages or improvement in bonus or improvement in holidays but if an employer not really to do one thing even from these, than the relation between employers and employee startes adverse and also workers health will felt down and they will not work actively.

Every worker has a right to get promotion in his job. With this an employee gets some benefit like improvement of wages, bonus improvement of his/her job etc. even every employee expects of promotion in his job.

As we know that a worker expects from his employers to get promotion after a limited or fixed period of working or job time.
There can be one or more person at one time who are eligible for the promotion but the senior most should be the person who should get promotion. But if under the malafide intention any employer denies to give promotion to the workman than there should be some provisions (for the benefits of workman) regarding filing of report against the employer. This is the situation under which there can develop misunderstanding between employers and employee and there relations start ruin.

Increments is a normal process in an industry; Increment is wages is a normal process in industry and as we know that increment gives happiness to every person in their job, with the proper increment in job or good salary an employee can fulfil his/her extra needs.

In India there are provisions for the periodical increment in wages, for example; increment after five year, after 7 years or can be 10 years.

Increment is like a incentive for the workers. Increment in salary can be made on any occasion or any festival or in a general way that can be as a gift to workers or can be according to time of work of job. The terms of increments may or may not be written on the employment agreement.

The scale of increment shall be fixed by the employer as per time fixed for the increment on salary.

No employer can make partiality with any employee regarding the increment in salary. But some time employer who perform partiality with the employees or workers. That will harm one day and the gap b/w the employers and employee starts to become wide.

Excepting the salary of an employee, there are some other benefits given by employer to the employee, these are called fringe benefits; ‘fringe’ means ‘the benefits which are excepting them the salary of a workman.

There are retirement benefits such as called pension, gratuity, insurance, allowances etc. called the ‘fringe benefits’. Benefits which are taken by a person from different heads which are not come under fringe benefits.

Actually there is not universally accepted benefit from a industry to the workman related to the fringe benefit. For example; if employer sends any employee to do any work (officially work) then the employer shall have to
pay something extra to the employee for the charge of transportation, which include extra benefits.

Benefits after retirement means that the person who got retired started to get benefit from the Govt. or industry. Benefits like P.F., gratuity and pension scheme.

There are some scheme like Provident Fund, Retrenchment compensation, pension, insurance benefits etc.

There are following methods for the solution of industrial disputes:
  - Arbitrator process.
  - Mediator and conciliator process.
  - Collective bargaining.
  - Investigation by Govt.
  - Adjudication by the Tribunal.

In Arbitrator process, Arbitrator in nominated by the both of the parties. Employer and employee both by the agreement or by order of Court be appoint an Arbitrator. Who will perform like a Judge in the dispute. Dispute can be of any type, may be related to the duty, rights of an employer or employee, dispute related to provident fund, salary, increment, transfer etc. Arbitral Authority is also same like Civil Court in India. This is based upon the parties to choose any Arbitrator or can ask from the Court or Presiding Officer of a Labour Court or a Tribunal or National Tribunal as an Arbitrator. Arbitral process is also same like Civil Court.

Mediator means the middle person between the both disputed parties. Conciliator is the parson who gives the consent to the both parties. The Govt. is authorised to appoint Conciliation Officer who have the duty to perform like mediator, who resolve the dispute.

Conciliator is like a diplomatic person who endeavour to remove controversy between the disputed parties.

A conciliator with his experience of life and directions solve the dispute, with the power as a conciliator or mediator and with the prior experience in Labour Management.
He will provide the opportunity of communication b/w the employer and employees.

He will provide the way to solution or provide or suggest the way for solution of dispute.

Collective means; combinedly or jointly.
Bargaining means to bargain with some one or settle down.

So, collective bargaining means ‘to settle down the disputes’ by way of collective bargaining resolve the dispute. Collective bargaining is a cheap method to resolve the dispute between the disputed parties. In modern time people are so busy and don’t have so money to waste or invest in the Courts so labour cum conciliation officer can easily resolve the matter, and very fact that is that employees are deadly based upon their salary (monthly wages) so that they don’t have even the much money to spend in the Courts.

Where the dispute arises, the appropriate Govt. is to constitute a Court of inquiry in to any disputed matter.

Inquiry may be on any dispute related e.g. increment, pension dispute, other dispute related to the employee and employer or between the employee’s or employees.

The inquiry authority have to inquire whole the matters within six months from the date of inquiry or date prescribed by the Govt.

It will inquire on the matter related to merits of issues and make a report on them, why the dispute arises, what was the reasons, who was victim.

To collect information on whole type of matter related to the industry and their workers. The duty of Court of Inquiry is to select the facts which are considered necessary.

Then Court of Inquiry with several methods resolve the dispute.

As we know that adjudication means to resolve the dispute. But like other form of methods, like Arbitration, Mediator, resolution method by adjudication is very important. Following facts are necessary to know-

From adjudication we means to resolve the dispute through Labour Court, Industrial Tribunals or National level Tribunals under the Act or by other authorities under the law of State. So, from here we can conclude that
whether arbitration, mediation & conciliation or the Court of Law (Civil Court) all these dispute to solved authorities work for the resolution of dispute.

Whether arbitration method, mediation or labour court in this country. The central aim of these authorise is to resolve the dispute.

There are some important steps which are very beneficial for employees and employer to follow for cordial relation, for instance-

The employer should work for the welfare of the employee. Every employee should be fair and honest for his work in industry.

All type of remuneration, provident fund should be given in time. There should be facilities of medical and other of daily utility.

There should be availability of facilities which can be utilised by the labour and also should be helpful and beneficial for the workers.

There are some type of facilities like I.T., Computer, Reading room, new technological machinery, loan, insurance, new scheme of employment, increment etc should be available.

The management should have to be prime duty in their mind about the welfare and dispute resolved to the labours or workers.

Management should be good in there industrial relation between the employer and employees or employees and employees. Because where relations between the employees and management are good, then the communication (may be any type) will also be good and that will definitely affect in the welfare of the industry.

So, the relation between both should be quite good and healthy because if directly affects the growth of industry and welfare of employees.

The role of managers should be clean and for the welfare of their workers.

**Because, managers is the person who’s duty is to manage every work in the industry.**

For instance; management of the working hours, management of the work, management of the industrial import and export product, maintain the account of raw material and import from other industry or foreign country. Manager is like the wheel of the industry that regulates the functions of industry.
Atmosphere of the industrial relation should be good and quite healthy, which will affect the progress of industry. Atmosphere means the types of atmosphere - Internal & external.

Internal means, there should be facility of water, food, medical facilities, good management of time etc.

External means, there should be external things for good environment, like trees, plants, cleaning, reading room, insurance, holiday, bonus, P.F., increments etc. these type of atmosphere effects the process of industry or gives good outputs to the industrial work. Managers should have co-operative approach such as he should tell true facts, should express fair plan, should listen views of the employees. Managers should have broad visions, they should not under-access their employees. In fact employees are counterparts so they should be taken in confidence and should win over their trust. All is possible if the managers are taking decisions about the establishment with mutual discussion, sharing of views. Employees should not be treated as opponent.

Leadership of both side should be ideal one good leadership on management side do not detract the management and always take the right decisions. Same situation is on other side of the employees. Selfish and illiterate leaders paves the way to disputes unnecessarily, such type of leaders keep the employees under confusion, darkness and make aggressive towards management. Managers should have their attention on these aspects at top priority viz. goal to be achieved, believe in negotiation, skill of monitor, laisening skill. Managers should not take steps hurriedly in probable disturbance, rather they should handle the disturbance with patience and wisdom.

There are some guidelines for management and employees to be followed which are in the true sense skills such as both sides should have conceptual skill in their mind. In other words what is the exact good which is to be manufactured. second in human skills that means how the manpower to be used properly. Third is technical skills that means the knowledge about machineries, their operation system, the repairing knowledge etc.
It is also expected from the managers that they should purchase raw material at cheap rate and to sell the product at high price so that establishment can get profit and employees may get bonus.

Another guideline is the managers should have confidence in employees and employees should have sincerity towards employer. Managers are also to face competitive market and other global challenges are to be faced. To use latest information technology to import foreigner technical staff etc. all is possible with the co-operation of employees.

There should not be unfair labour practice on the part of the employer and employees. There are some miscellaneous guidelines such as efficiency of workforce be increased, product quality be improved, new innovations be continued, between employer and employees, there should be harmonious relations.

There are some factors which disturb the industrial relations viz. greedy trade union officials, role of politics in trade union, terrorism impact, to compete with black money investors. In brief it can be observed that it depends upon the managers and trade union to lead the establishment in but way. Both can ruin the industrial relations as well as industry. Adamant attitude, greed, rigidity, political affiliation, corruption, rivalry factors are the real invisible factors which disturb the industrial relations.

There are some burning causes of industrial disputes which ultimately resulted into disturbed industrial relations of employer and employees such as disputed discharge under contract, retrenchment, change in condition of labour, transfer of workers, hours of work, work loads, promotions, increments, production bonus, retiral benefits etc. There are statutory solutions of above industrial disputes also.

Here discussion is given of various causes which disturb the industrial relations-

**Causes of Adverse Industrial Relations:**

1. **Discharge under Contract** — whenever an employee is discharged, his mind gets upset and a fearful massage spreads among labour community which resulted into sour industrial relation. A contract may be indefinite as to the time during which it is to endure, and yet stipulate the length of notice to be served. Such
stipulation must be observed and a deviation from its terms will constitute a breach of the contract. Where, however, there is no stipulation as to notice, the contract is terminable by a reasonable notice. Discharge under the contract may be effected for various reasons and under various circumstances, as may be provided for in the contract of service, standing orders, or a status or rules thereunder governing such service.

2. **Retrenchment.** – Retrenchment is also one of causes of adverse industrial relations. It could be with bonafide as well malafide intention. For validly terminating the service of a ‘workman’, as a measure of retrenchment, therefore, the employer must comply with the requirements of S.25F, or S.25-N and S.25G of the Act.

3. **The Terms of Employment or The Condition of Labour, of Any Person.** – Basically, “terms of employment” include such straightforward industrial issues as bonus, wage rates (in all forms including dearness allowance and other allowance) hours of works, overtime, holidays with pay, sickness benefits, superannuation benefit, grading and promotion, dismissal and retrenchment procedures. But “terms of employment” is a wide-ranging phrase, which also extends to less obvious aspects of labour relations than these.

4. **Transfer** – Transfer from one establishment to another or from one branch to another is incidental to the managerial functions. It is an inherent power of the management, which has several branches and there is no indication in the contract of employment that the employee was not subject to transfer. As to how to best secure the efficiency of service and as to whether it would be desirable in the interests of administrative convenience to effect transfers, are all matters which the management alone can decide. Whenever transfer of an employee is effected from one unit to another the employee is to adjust some new circumstances which may be painful to him/her which may resulted into disturbed industrial relations. Yet transfer is a right of employer as per his necessity and progress of his plant but whenever such transfer is effected with malafide intention, it culminates into bad result. Sometime, such step of employer may disturb peace of establishment.

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5 Caravan Goods Carriers (Pvt) Ltd. v. Labour Court, Madras, (1977) II L.L.j. 199 (210) (Mad.)
The Calcutta High Court, narrated these principles pertaining to transfer of a workman:

(a) Transfer of a workman from one department to another or from one job to another cannot be made, if his service conditions or terms of service contract expressly negative the right of such transfer or if the standing orders of the employer prohibit such transfer;

(b) transfer must not operate to the prejudice or detriment of a workman, unless expressly authorised, i.e. the transfer must not occasion to a workman economic loss in wages, bonus or other monetary benefits;

(c) transfer must not be made by way of punishment, that is to say there must not be a malafide transfer so as to victimise him;

(d) transfer of an employee to an inferior position and imposition of unaccustomed and onerous duty must not be allowed to be made, particularly in unexplained coincidence with the employee’s trade union activities; and

(e) it is never the implied condition of service of a workman to transfer him to a new unit started after his joining in service.

5. **Hours of Work.** – Trade Unions are willing to reduce the hours of work without loss of wages, elaborate provisions regarding the rest periods spread over total number of hours per week, over-time and the manner of intimation of these hours and holidays have been made by various statutes. Labour statutes provides not more than 48 hours in a week and 8 hours a day with an half hour interval for rest.

There is nothing in these statutes which enjoins that these working hours could be changed only by mutual agreement. It is the function of the management of an establishment to adjust or vary their hours or work within the limits prescribed by law. It is not the policy of the aforesaid legislation to leave to mutual agreement the determination of such vital matters as daily and weekly working hours and holidays and over-time, for in a factory or establishment where labour is not so well-organised, it is possible to obtain agreement to adverse working conditions due to pressure of economic necessity. This would be contrary to the public policy. But within the prescribed limits, the management has the right to alter the period of work, provided it

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6 New India Flour Mills V. The Sixth Industrial Tribunal, (1963) I L.L.J. 745 (750) (Cal.), per Banerjee, J.
7 Workmen of Hindustan Shipyard (P) Ltd. v. Industrial Tribunal, (1961) II L.L.J. 526 (531) (A.P.), per Jaganmohan Reddy, J.
gives the necessary intimation of the change as required by the standing orders and other provisions of law applicable to it.

In May & Baker (India) Ltd. v. Their Workmen, the working hours of the company were from 9 AM to 5 PM, with three rest intervals – The tribunal changed these hours to 9.30 AM to 5 PM with one hour’s interval for lunch. Theoretically, there did not appear any reduction in the working hours, but practically there was one because the tribunal directed that instead of two intervals of 15 minutes each for tea which was supplied by the company to its workmen, it should see that tea is supplied to the workmen at their tables. The Supreme Court, in appeal, noticed that the tribunal had, in fact, reduced the working hours by half an hour each day as obviously the workmen will take their time for tea because they cannot both work and take tea at the same time. In the circumstances of the case, the reduction in the working hours was held to be unjustified.

6. **Work Loads.** - Work load is a matter which is mentioned in contract of employment. Disputes quite often arise out of the adjustment of work-loads. A detailed consideration of this subject would be out of place here as it involves industrial and economic problems rather than legal questions. The legal questions with respect to work-load arise when the interpretation of some statutory provision is involved or the principles laid in some cases have to be applied. Work load should be reasonable and just in accordance of human rights. It is should not amount to exploitation and inhuman.

7. **Promotion:** (i) Right to Promotion. – In England, claim for promotion has been held a part of contract of employment. But in India the judicial opinion is that promotion in the course of industrial employment is the prerogative of the management. In Brooke Bond (India) (P) Ltd. v. Their Workmen. It is time to reconsider this archaic view of laissez faire days that promotion is a management function because the whole gamut of labour legislation is “to check, control and circumscribe uncontrolled managerial exercise of power with a view to eschew the inherent arbitrariness in the exercise of such functions”. Even at present the law is, that though the promotion is a managerial function. “it may be recognized that there may be occasions when a Tribunal may have to interfere with the promotion made by the management where it is felt that persons superseded have been so superseded on

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8 May & Baker (India) Ltd. v. their workmen, (1961) II L.L.J. 94 (96) (S.C.) per Wanchoo, J.
account of mala fides or victimization”. Where a particular employee should be promoted from one grade to the higher grade depends not only on the length of service but also on his efficiency and other qualifications for the post, to which he seeks to be promoted. And in the matter of promotion, the intimate knowledge of the higher authority, empowered to promote, has a greater value. If a higher post is created in any department and a new man is to be appointed to it, even the seniormost workman working in such department has got no right to claim promotion to it. Seniority only plays a small part in the matter of promotion. The expression ‘victimisation’ must be given normal meaning of being the victim of unfair and arbitrary action. On the other hand, the workers also want that the claim of the employees who are eligible for promotion should be duly considered. If at a given time more than one person is eligible for promotion, seniority should be taken into account and should prevail, unless eligible persons are not equal in merit. Even though promotion or upgradation is a managerial function, “it must not be on the subjective satisfaction of the management, but must be on some objective criteria”.

There should be no arbitrary or unjust and unreasonable upgrading of some persons superseding the claims of persons who may be equally or even more suitable.

8. Increments. – Periodical increment in wages, being a normal incident of industrial employment, is a term of employment. Terms or conditions relating to increments may be implied or expressed in the contract of employment or provided in the rules of service or Standing Orders of the establishment or may be provided in a ‘settlement’ or an industrial award. In other words, the principles of financial capacity of the employer and the region-cum-industry basis will have to be borne in mind in awarding any incremental scales in wages. Increments in wages cannot, therefore, be awarded unreasonably i.e. without considering the economic condition of the establishment. Therefore impact of such increments in future is judged. But once it is found that the employer has necessary financial capacity of sustaining the burden of increments, the award of annual increment is to be held to be a normal rule. The scales of increments fixed by the employer, settlement or award, cannot be stopped unless it is proved that the employer in incapable of bearing the financial burden of such increments. The increments, however, are subject to the efficiency bar in the incremental scales.

The employer has the right to withhold increments of a workman as a measure of punishment or for proved inefficiency or any act of misconduct. But such
punishment can be inflicted on compliance with the procedural rules of natural justice. The increment which has already accrued to the workman before his being found cannot be withheld retrospectively. Stoppage of increments in contravention of S. 33(1) of the Act shall also be illegal.

9. **Fringe Benefits.** – Traditionally, the obligation of an employer to the workmen was considered complete with the payment of basic wage – viz. wage of each unit of time spent on the job or each unit of work completed. With increasing industrialization, rising prices, rising incomes and other historical vicissitudes, the interests of the workmen in compensation have considerably widened to include more than basic wage payment, and consequently the employer’s liability to provide supplementary items of compensation has increased. Such supplemental items of compensation have generally come to be known as ‘fringe benefits’. “fringe benefits” is a term embracing variety of employees’ benefits paid by employers and supplementing the workers’ basic wage or salary. There is no universally accepted group of practices embraced by the term ‘fringe benefits’. Broadly speaking a ‘fringe benefit’ has to meet a twofold test viz. it must provide a specific benefit to an employee and it must represent a cost to the employer. Various types of allowances, benefits and amenities are comprehended in the concept of the ‘fringe benefits’. Some such benefits are directly financed by the employer, while some are paid to the workmen indirectly. The benefit of group insurance falls in the format category while certain types of allowance fall in the latter. In India, there are various regions and it is impossible to deal with them all.

10. **Retrial Benefits.** – Benefits given to an employee at his retirement for instance gratuity, provident fund and lastly pension. Such schemes were also introduced for their employees by certain enlightened employers. In addition to such benefits, the Industrial Disputes Act also make statutory provisions of compensation on the retrenchment or closure of establishment.

(i). Provident Fund. – The provision of provident fund has also been recognised as a term of condition of employment of industrial workmen. Legislative measures have imposed the requirements of provident fund on the employers and employees statutorily, in certain type of industries.

(ii). Retrenchment Compensation. – S. 25F makes provision for payment of compensation to industrial employees when their services are
terminated by way of retrenchment on their becoming surplus age. S. 25FF makes provision for a similar compensation being paid to the workmen on the transfer of the undertaking from one employer to another. Likewise, S. 25FFF makes provision of payment of similar compensation to workmen on the closure of the undertaking of the employer. Compensation under these provisions has been made statutory term of employment or condition of labour of the industrial employees. For detailed discussion see Notes and Comments under those Sections.

(iii). Pension. – Like the provident fund, pension is also a measure of security for old age, inability and death of the bread-winner. The provident fund is not an adequate cover for the contingencies of death and inability. Hence in certain industries where the financial capacity permits, the employers introduce pension schemes for providing such security to their workmen. A scheme of pension is different in the scope and content from a provident fund scheme and a gratuity scheme.

High Court (a single Judge) of Assam and Nagaland has pronounced that after the scheme has been brought into force by an employer it is no longer a matter or bounty and the scheme has to be enforced and the management cannot refuse pension as condition of service to the retired employees. Mere mention of certain period in the hypothetical illustration contained in the scheme, for the purpose of calculation and commutation of pension, did not limit the time regarding the pension, and from that it could be not inferred that the scheme was not for life pension.

SOLUTIONS OF INDUSTRIAL DISPUTES

Following are some methods of solutions of the above industrial disputes. These solutions have been provided in Industrial Dispute Act, 1947. Here we will discuss the techniques of dispute settlement by these methods adopted as per necessity of each case-

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10 Namburinadi Tea Co. Ltd. v. Workmen of Namburinadi Tea Estate, (1968) Lab. I.C. 1386 (Ass. & Nag.) per Goswami, J.
COLLECTIVE BARGAINING – Collective Bargaining is also one of the solutions of disturbed industrial relations. Here a agreement takes place between employer and the labour’s representatives. In future, violation if any takes place then remedy is sought in statutory way. The issues in collective bargaining broadly speaking relate to wages, hours of work, various benefit provisions, job security, and other terms and conditions of employment. Also involved are question concerning recognition and status of unions and collective bargaining procedures.

The process of collective bargaining, though in a nebulous and limited form has been introduced in the year 1956. It would thus appear that the process of collective bargaining yet rests on the statutory crutches. Likewise, the provisions in the State legislations also, the system of collective bargaining is hedged by statutory safeguards. Thus though in principle collective bargaining has been recognised, the emphasis is mainly on adjudication. In practice, with the aid of these statutory provisions, the Government has retained ultimate control over the settlement of industrial disputes by resorting to compulsory adjudication. All the same, “there is significantly more bargaining now than there was ten years ago and in the most advanced situations it has become a solid fact of industrial life having built up an impressive range of subject matter and a considerable structure of rules”.

MEDIATION AND CONCILIATION. – S. 4 and 5 of the I.D. Act provides settlement of Industrial Disputes with the help of a conciliation officer. A Board of conciliation may also be established by the State Government which will play role of mediator for one or more industries either permanently or for a limited period \(^{11}\). Though it is discretionary for the Government to appoint the conciliation officers, their appointment has become normal feature in view of the important role of conciliation in the settlement of industrial disputes. But the constitution of the Boards has rarely been resorted to. In the recent years no Board of Conciliation has been appointed by the Central Government.

INVESTIGATION. – As per S.6 of the ID Act, Govt. can appoint a Court of Inquiry to investigate any Industrial Dispute and to made report thereof to the Govt. Such Court of inquiry can suggest steps which can be helpful in settlement of Industrial Dispute.

\(^{11}\) S. 4 in based on S. 18-A inserted in the Trade Disputes Act, 1929 by the amendment of 1938.
(4). ARBITRATION. - Arbitration can be appointed by the agreement of both parties and also can be appointed by the Court. The Arbitrator give opportunity of hearing to both parties. Give proper opportunity of production of evidence then come to the conclusion which is known as settlement of Industrial dispute. Relevant section are Sec. 10, 15, 17 and 17A of I.D. Act, 1947. Such decision is known as Award which is deemed as final. No appeal is allowed except if some foul play might have not taken play.

(5). ADJUDICATION. – Adjudication means settlement of Industrial Dispute by Labour Court or Industrial Tribunal or by National Tribunal. It is a justice which is provided by the judicial authority which shall have to be obeyed by both the parties but before adjudication, the stage of conciliation, mediation arbitration is exercised, so that wastage of time, money etc. can be saved. Also the numinous relations can be maintained.

1.5.2 History: -

Historical aspect of the topic is of much importance. Depth of a concept can be known only by looking in the background of the topic. Industrial relations is not a new phenomenon. There is a systematic history behind the topic. During British Rule in India, the industrial relations were very bad because, the Government was of Britishers. They protected their interest at the cost of labours. There are faring examples of exploitation, inhuman conditions of Labour, low wages, no trade unions of independent nature. Malpractices or unfair labour practices were prevailing. But because the Indian Constitution has preamble of a Welfare State, the attention was given to the terms of employment and health, economic standard of life conditions were given due attention. That is why a vital change appeared in Industrial Relations.

After Independence of India, recognition to industrial relations was given in Industrial Dispute Act, 1947. The Act embodies conciliation a method of settlement of disputes, arbitration and adjudication; it also seeks to prohibit lock-out & strikes.

Industrial Relations policy during the different plan periods of India was a follows: The first five year plan necessitated the industrial peace in industry, the ultimate oneness of interest and the virtue of harmonious relations between capital and labour. The second plan also continued the policy formulated in the previous
plan. The third plan stressed more on moral rather than on legal sanction for the settlement of disputes. It laid stress on non occurrence of labour unrest. The fourth plan emphasised for the growth of a healthy trade union movement so that it could secure better labour management relations. Trade union should draw attention towards proper condition of work and living, but should also play for Nation’s development. The fifth plan stressed better enforcement of labour legislation and imparting training to labour officers. Emphasis was also given on strengthening Industrial Relations and conciliation machinery, better enforcement of labour legislation. From the sixth plan to eighth plan adequate consultative machinery and grievance procedures were evolved and made effective. Effective arrangement was also made for the settlement of inter-union disputes and to discourage unfair labour practices. It also stressed that collective bargaining should be encouraged. Worker’s participation in management was made. It is a vehicle of transforming attitudes of both employers and employees for establishing a co-operative culture which help in building a strong self-confident and self-reliance country with a stable industrial base.

Thus, with new ideology and thoughts, the relationship between the management and workers has changed from one of ‘master and servant’ to that in ‘joint responsibility’ or equal partners in industry. The whole arena of Industrial Relations has shifted from adjudication to persuasion, moral pressure and settlement of dispute through voluntary arbitration.

In this present chapter, introduction and historical perspective is to be explored of each industrial law one by one for the purpose of clarity and to avoid confusion. There are most important industrial laws which are very necessary to be studied to know the contribution of these laws in maintaining relations between the two, out of which the Industrial Disputes Act, 1947 has unique place in maintaining these relations because it covers many aspects of the employer-employee relationship. During the whole study attempt has been done to see the judicial interpretation of the various concepts embodied in various industrial laws covering latest amendments and latest decisions so that the true relation can be ascertained and advocated.

1.5.3 Critically–

For proper development of a country, industries are needed and for proper functioning of the industries, both counterparts viz employer and employees much have sweets relations. Good industrial relations is the need of the hour. In industries, machines might are working but they are the human beings in the form of
employer and employees who are responsible for the proper functioning of an industry. Their cordial relation and co-operation is very much necessary for the purpose of an industry.

Productivity is not merely the ratio of output versus input, but that it involved, in a substantial way, the human element. Productivity does not merely as rationalization or efficiency in only technical terms. Therefore, positive involvement and commitment by labour and unions were thought essential for the success of productivity activities. The three guiding principles in this connection are as follows:

(a) Employer-employee corporation:
   To increase productivity, labour and management must co-operate.

(b) Increase of Employment:
   Improvement in productivity will increase employment in the long-run.

(c) Fair distribution of the Productivity gain:
   The fruits of improved productivity should be distributed fairly among management, labour and consumers.

Joint Labour-Management Consultation system in India is not to replace collective bargaining. Instead that the joint consultation system and collective bargaining have their respective functions to play. For those issue in which the interests of labour and management conflict, such as pay increases, more holidays and shorter working hours, unions negotiations with management normally in collective bargaining. However on matters of mutual interest, such as productivity improvement, safety education and training representatives of both sides sit together and exchange discussion in a constructive way at a joint consultation meeting. The whole idea is to maintain healthy discussion on one side and constructive co-operation on the other between labour and management.

In India the labour-management joint consultation system is providing a ground for better communication within the organization and labour participation. Joint labour-management consultation bodies are to obtain labour unions undertaking of and co-operation in management actions, and to prevent disputes through smooth communication.
One of the basic features of Japanese Society is a profound sense of national unity and shared goals. This group consciousness of group cohesion of the Japanese is opposed to the individualism of the western society.

Prior to the advent of industrialisation the development of human society was from status to contract. But the industrial society all over the world has been moving, particularly today, from contract to status. In modern era, there are various ways to determine the relationship between employers and employees. The employer-employees relations may be broadly categorised into two heads. They are as follows: (a) voluntary regulation system, and (b) legal regulation. Therefore modern regulation of employer-employees relations has wide coverage of contracts, standing orders, awards and laws.

The story of told of a Swedish expert who went to Japan to study workers participation in management. In one factory, in the middle of an interview, he was gravely embarrassed when the Japanese worker burst into tears. Finding no response from worker, the Swede sought an answer from his supervisor. “Tell me everything that you said to worker” demanded the supervisor. “Ah yes, he said to the Swede confidentially after listing to his story, the worker was upset when you told him that his company has not been procuring export orders like before. The worker the Swede was told, was deeply concerned that the national would suffer is the exports went down, a fact which could be attributed, in his own estimation, to lowering of quality.

Apart from quality induced benefits like higher bonus, personal satisfaction, organisational gain or national gain, if managing at the functional level viz. manager’s quality dealing with workers. Quality promotion, quality commutation, quality variation etc. could be brought about the final product quality (which was generally refer to) is bound to come about on its own.

Managers often talk in terms of well rounded personalities. It is said that a sluggish or indifferent worker or manager for the matter, cannot be an active community leader or, at home, a caring father to his children. A person who cares for quality in relationship cannot segment it to mean different things in different places or under different environments. To him, or her, devotion and commitment in a relationship would be a part of the personal culture.

For business quality preachers, it would, now onwards, be a laudable venture if they Indian industrial set-up. No doubt, making aware of this has a long gestation period. But this fact should not deter out managers at all levels of the system from
devising and implementing a quality awareness programme with urgency and without any further loss of time.

**GOOD LEADERSHIP HARMONISES RELATIONS**

It may be the management or labour, good leaders are beneficial. Most effective leaders are made, not borne. Whether you are climbing the carrier ladder or trying to get along in life, being recognized a leader is the ultimate complement.

“Leadership has become the universal vitamin C pill”, say a renowned psychologist David Campbell. “People seem to want mega-doses”. Here are some cultivable leadership skills or traits based on opinions and experiences who of those have reached the very top in the diverse fields.

**The ability to accept people as they are:**

It is important to understand what other people are like to their terms rather than by judging them. This should be seen as the highest of wisdom viz to enter the skin of someone else.

**The need to make other comfortable:**

It is imperative to keep emotions under control to put other comfortable and at ease. This will make people more productive.

**The capacity to foster enthusiasm:**

The best possible way to generate enthusiasm is to be enthusiastic yourself. This will help people to understand the importance of work and also to lend their mental strength.

**The necessity to develop the trait called ‘optimism’:**

As an old saying goes: “The pessimist sees the difficulty in every opportunity and the optimist sees the opportunity in every difficulty”, if such a positive mental attitude is cultivated, it will help people to perform well in any vocation.

**The willingness to give credit:**

This is more effective than even the most constructive criticism. As Kenneth Blanchard, a co-author of “The one-minute Manager” has very rightly observed, ‘Catch People doing Something Right. Then tell everyone about it.’

Understandably, the loyalty so generated will be simply stupendous and the most important currency a leader can have.

**The paramount need to trust others:**

It is counter productive to be always on guard and constantly suspicious of others. Having faith in someone gives him self-confidence and self-motivation. Is
must be remembered that even an overdose of trust, which at time involves the risk of being deceived or disappointed, is wiser in the long run than taking for granted the most people are incompetent or insincere.

The ability to do without constant approval or recognition from others:

In work situation, the need for constant approval can be counter productive, it is not that how many people like leaders. The most important is the quality of work

that result from collaboration with them. To take risks is a major part of leader’s job, though risks by its very nature cannot be pleasing to everyone.

The sensitivity of approach to problems in terms of the present:

What really matters is viewing and evaluating problems in terms of the present rather than the past, although it is said one can learn from the past mistakes. By using the present as a take-off point for trying to make fewer mistakes is psychologically sounder than rehashing things that are over.

It is absolutely essential that the leaders have to improve their people skill otherwise they will spend their careers alienating others. They will do well if they remember that the primary criteria for advancement are communication skills with superiors and motivational skills with subordinates. The best leaders know that their savvy and proficiency are part of their charisma. Understandably, competence galvanizes people, and will make them look to their leader for guidance and direction.

Therefore sweet industrial relations are required. New a day collective bargaining is playing fruitful role. But if compromise does not take place, various legislations provide the way in solving disputes. This is called judicial (adjudication) method of solving disputes. If both employer and employees are working honestly, there will be no dispute.