CHAPTER VIII
PREVENTION AND SETTLEMENT OF INDUSTRIAL DISPUTES

Industrial harmony is a pre-requisite for the economic development of a country. Strikes and lock-outs disrupt production and come in the way of economic self-sufficiency. Various methods have been devised to prevent the occurrence of disputes and to set right the disequilibrium in the industrial relations system. These methods envisage direct negotiations and if these fail, the intervention of a third party becomes inevitable. The intervention of a third party may take the shape of conciliation, arbitration or adjudication.

In this chapter, our primary purpose is to discuss the working of the different methods used for the prevention and settlement of industrial disputes in HR(I)L, where the Madhya Pradesh Industrial Relations Act, 1960, applied, and in ITI where the Industrial Disputes Act, 1947, applied.

COLLECTIVE BARGAINING
Collective Bargaining in HR(I)L

Sub sections (i) and (ii) of section 31 of the Madhya Pradesh Industrial Relations Act, 1960, provide that the management can change the conditions of work only through an agreement with the representatives of the employees. Hence, it was expected that a large number of agreements would have been made between the management and the union in HR(I)L. It was found that 123 collective agreements had been signed between the management and the recognized union during 1961-73.
A subjectwise list of agreements between the management and the recognised union is given in the table below:

**TABLE 8.1**

Subjectwise list of agreements between the management and the recognised union during 1961-73: HR(I) L

<table>
<thead>
<tr>
<th>Wages</th>
<th>Dearness</th>
<th>Leave/hs</th>
<th>Promo</th>
<th>Val.</th>
<th>Incen.</th>
<th>Shifts</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>9</td>
<td>11</td>
<td>19</td>
<td>26</td>
<td>8</td>
<td>7</td>
<td>22</td>
<td>123</td>
</tr>
</tbody>
</table>

Twenty agreements (See table 8.1) between the management and the representative union related to wages. Some of these dealt with increases in the wages of all the categories of workers, while others dealt with an increase in the wages of only a particular category. Implementation of the Wage Board Award for Engineering Industry was one of the major agreements between the management and the recognised union. Nine agreements related to revision of dearness allowance. Such a large number of agreements about D.A. were mainly due to the fact that there was a sharp rise in prices after 1961.

Nineteen agreements were made between the management and the representative union with regard to promotions of the employees. According to an agreement signed on March 3, 1970, lower division clerks could be promoted as upper division clerks after completion by them of eight years of service. Similarly, separate agreements about promotion were reached regarding shippers, jingers, assistant superintendents etc.

It is also seen that twenty-six agreements related to the provision of welfare facilities for workers, eleven to leave and holidays, eight to incentive schemes, and seven to shift timings.
Twenty-three agreements related to other items like festival advance, uniforms and washing allowance.

The conclusion of so many agreements, however, led to frequent changes in the policies relating to service conditions of workers. It was also alleged that as the recognized union was weak, the management was in a position to effect changes in the policies according to its own liking.

**Assessment of the Working of Collective Bargaining in HS(II)**

Ten of the management personnel interviewed considered the bargaining power of the management as low, while seven considered it moderate or high.

Those who rated the bargaining power of the management as "low" gave the following reasons in support of their views:

(a) The interference of political leaders in negotiations was high. Politicians not only put pressure on management to start negotiations but also meddled with the process of negotiations. A former Chairman of the plant, when interviewed, said, "When I joined the plant in 1967, I had to reinstate all those people who had come out of jail, due to the pressure exerted by the SVP Government". One management member said, "Bargaining is not done at the negotiating table, but at the house of a minister".

(b) It was said that the management was unable to take independent decisions on various issues as they had to look to different ministries at Delhi for confirmation of those decisions. One member of the management said, "Even the Chairman is not sure what action he will eventually take". Four trade union leaders in HS(II) considered their bargaining power high, six said it was moderate, and another six considered it to be low.
The trade union leaders, who said that their bargaining power was low, gave the following reasons for holding that view:

(a) The workers' point of view was not conveyed properly or adequately at the bargaining table because the recognized union did not have an effective following, and the non-recognized unions could not negotiate with the management.

(b) The management was not directly affected by any loss incurred in a public sector enterprise. It was even alleged that sometimes the management would covertly favour a strike so as to conceal their losses.

(c) Before any agreement could be arrived at between the two parties at any one plant in the public sector, the management had to consider the possible repercussions of that particular agreement on other public sector plants in the country.

(d) It was alleged that the Central and the State Government actively backed the management. The State Government under section 144 issued an order at the time of strikes and enforced it strictly. One trade union leader said, "There has been more police repression in the public sector than in the private sector".

The trade union leaders, who considered the bargaining power of the unions 'high', gave the following reasons in support of their view:

(a) Due to the existence of strong rival unions, the management had to listen to the recognized union.

(b) Unions could also bring pressure from political leaders of the centre and the state.

(c) One trade union leader said, "Under the MPIR Act, 1960, the General Secretary of the recognized union must sign an agreement."
He does not need any following or a strong trade union”.

Only 14.3% of the workers' sample said that the recognized union had been successful in negotiating with the management in the preceding years, while 60.8% said that it was partly successful and 17.5% considered it unsuccessful.

Collective Bargaining in ITI

In ITI, the Industrial Disputes Act, 1947, was applicable. This Act, unlike the MPIR Act, 1960, does not require the management to negotiate with the recognized union on all matters concerning service conditions of workers. In spite of the absence of a statutory provision, the management in ITI generally consulted the union on all issues relating to the service conditions of workers. Some of the formal agreements in ITI are summarized below:

An agreement between the management and the union took place on May 2, 1965 in response to a charter of 15 demands by the union. The management accepted some of the union's demands such as overtime payment at double the rate, service rewards to those who had completed 15 years of service, and revaluation of all the jobs in the company. Similarly, through another agreement on November 18, 1967, it was decided that an ad hoc allowance at the rate of Rs. 7 would be paid to workers by way of interim relief.

In May 1972, the promotion rules for operatives in the company were amended through an agreement between the management and the union, so as to take into account the over-all seniority

1. For details of workers' assessment towards collective agreements in ITI, also see Chapter V on Trade Unions.
2. This was a stop-gap arrangement pending the decision of the Supreme Court on the central dearness allowance.
of workers, instead of divisionwise seniority, for the purpose of
promotion.

Some agreements were also made about working hours and
incentive schemes.

Assessment of the Working of Collective Bargaining in ITI

In ITI, only two representatives of the management con-
sidered the management's bargaining power in the plant to be high,
while eight thought it was moderate. Four reserved their opinion.
None of the management representatives interviewed considered the
bargaining power of the management low. The management representa-
tives, who considered their bargaining power as not high, gave
the following reasons in support of their view:
(a) There were frequent changes in the top levels of the manage-
ment.
(b) On most occasions, the union had proved capable of successful
bargaining as its representatives came to the bargaining table
well prepared.

The trade union leaders were also asked about the bargain-
ing power of the union. While nine of the trade union leaders
interviewed considered it high, six said it was moderate and three
thought it to be low. The union leaders, who considered the
bargaining power of the union high, gave the following reasons —
(a) The entire working class backed the union, (b) the union took
up things in a systematic and democratic way and in accordance
with the prescribed procedures, (c) union office-bearers were
mature and (d) the union put forward only just and reasonable
demands, which it was not easy for the management to reject.

The union leaders, who considered the bargaining power of
the union as low, said: (a) The management did not have the time
to meet the union, or adopted delaying tactics, (b) the executive committee members of the union lacked unanimity of viewpoint, and (c) the union was less violent.

Unlike NE(II)L, 44.2% workers in ITI considered that in the preceding years the recognised union was successful in negotiating with the management. Only 2.2% said that the recognised union was unsuccessful, while 37.6% assessed the success as partial.

**CONCILIATION**

The aim of conciliation is to bring about a settlement of disputes through third party intervention. Section 12(1) of the Industrial Disputes Act, 1947 and Sub section 1 of Section 29 of the Madhya Pradesh Industrial Relations Act, 1960, provide for conciliation. The MPIR Act, 1960 allows a maximum period of one month for settlement. It further suggests (Section 28) that the period of settlement through conciliation can be extended if both the parties agree. The Industrial Disputes Act, 1947 permits a maximum of 14 days in the case of a conciliation officer, and two months for a Board of Conciliation.

The MPIR Act, 1960, further provides that when a representative union exists in the plant, it alone can represent the employees in conciliation.

**Conciliation in NE(II)L**

In all 18 cases were referred to conciliation in NE(II)L during 1961 to 1973. Of these, 9 were settled with the help of the conciliator, 2 were further referred to arbitration, 2 were closed, and 6 were still pending with the conciliator.

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3. For the table showing details of various issues referred to conciliation, time taken and their settlement see Appendix 3.1.
Out of the nine cases settled through conciliation, three cases took more than one year for settlement, two cases took six months or so, and two were settled in less than three months. For the remaining two cases, the data were not available. Some of the important issues referred to, and settled through, conciliation related to the "promotion policy" and the "incentive scheme". The settlement about the promotion policy laid down merit as the criterion for determining suitability for a particular post.

Conciliation in ITI

In ITI four cases were referred to conciliation. They are described below:

In November 1964 conciliation took place on a charter of demands given by the ITI-EU. However, the conciliation efforts failed. The offer of an increase in wages of Rs. 6 to each worker of ITI through conciliation was rejected by the union. This culminated in a strike in December 1964. Similarly, in November 1966, issues relating to profit-sharing bonus and central dearness allowance were referred to conciliation. Again the failure of the conciliation proceedings was followed by a strike.

On July 3, 1969, the ITI Employees' Union presented a charter of 24 demands to the management. The major demand related to the implementation of the Wage Board Award for Engineering Industries. It was taken up for conciliation by the Deputy Labour Commissioner and Conciliation Officer, Bangalore. As a result of the conciliation proceedings, an amicable settlement was brought about between the parties. The course of events which led to conciliation, and the consequent settlements through conciliation, is narrated below.
The union wanted higher benefits to be given to the ITI workers as compared to other public sector plants on the ground that the ITI was making profits. But the management wanted to be in line with other public sector plants in this regard.

(For the existing wage scales, pay scales offered by the management, pay scales proposed by the union and pay scales agreed upon by the parties see Appendix 8.2).

The union wanted to reduce the categories of operatives from seven to four. For non-operatives it wanted six categories, instead of seven. However, it was finally agreed that, the number of categories should remain the same as earlier.

The union wanted an increase of Rs. 80 to Rs. 100 per month for each worker in different categories. However, the management was agreeable to giving an increase of Rs. 30 to each worker, as was done in other industries. In a majority of the categories, the basic pay rose by Rs. 30. However, for categories 4(a) and 5(a) the union was able to get an increase of Rs. 45 for each worker. Moreover, the union succeeded in securing a higher amount of increment and a higher maximum pay in the scales for workers than those offered by the management. A house rent allowance varying from Rs. 10 to Rs. 25 was also paid to various categories of workers.

The fourth dispute, referred to conciliation in 1974, again related to wage structure. According to the settlement reached, the wages of the lowest paid category of employees were fixed at Rs. 200 basic pay plus Rs. 117 as dearness allowance.
ABRITRATION

Sub-section 2 of Section 11 of the Madhya Pradesh Industrial Relations Act, 1960, and Section 104 of the Industrial Disputes Act, 1947, provide for Arbitration. The arbitrator can be an individual, or arbitration can be through the Board of Arbitration. The Board of Arbitration consists of the representatives suggested by both the parties.

Arbitration in HR(II).

Only three cases were referred to arbitration in HR(II). The first case (July 1970) related to shift timings. The second (March 1971) was about the increased charges from workers for domestic electricity, and the third (February 1972) concerned with an increase in bus fares. All the three cases were pending with the arbitrators even in August 1974.

Arbitration in ITI.

As we have studied in Chapter VI, the strike of December 1964 was withdrawn as the management and the union agreed to refer the dispute to the arbitration of Satya Narayan Sinha, Minister of Communications and Parliamentary Affairs.

The matters referred to arbitration were: (i) The quantum of interim relief to be paid to the workmen, and (ii) the house rent allowance.

The Arbitration award provided for an increase of Re.1 for every year of service to each worker as demanded by the union. This interim increase was to be adjusted in the Wage Board award. A token amount of house rent allowance with a maximum of Rs. 5 was also given.
ADJUDICATION

Both the Industrial Disputes Act, 1947, and the MPR Act, 1960 (Sub Section 1 of Section 49) provide that an appropriate Government can refer the dispute to adjudication.

Further, in case of MPR Act, 1960, if a recognised union exists in the plant, it alone is empowered to go to the court for the settlement of a group grievance, while, in case of Industrial Disputes Act, 1947, all or any of the registered unions in a plant can approach the court for the settlement of a group grievance.

Adjudication in HE(I)1

Adjudication in HE(I)1 could be classified into two categories: (a) individual industrial disputes, and (b) group industrial disputes.

Individual Industrial Disputes in Courts

Individual Industrial disputes could be referred to the Labour Court, Bhopal; the Industrial Court, Indore; and the High Court, Jabalpur. Upto April 1971, 262 cases had been filed before the Labour Court, 55 had been referred to the Industrial Court and 8 to the High Court. From April 1971, to August 1974, 126 cases were referred to the Labour Court, and 40 and 10 to the Industrial Court and the High Court respectively.4

Out of the 262 cases on which decisions were given by the Labour Court, Bhopal, only 9% went in favour of the workers.

Time Taken in the Courts for Individual Industrial Disputes. A major objection against adjudication is the time involved in the settlement of a dispute. The data show that a majority of the cases in the Labour Court and the High Court took more than six months to be

4. Other details of the cases between 1971-74 were not available.
settled. Each of the 28 cases in the Labour Court, one in the Industrial Court and 4 in the High Court took more than two years (See Table 8.2).

A majority of the cases in the Industrial Court took less than six months to be settled. It was mainly because of the mobile nature of the Industrial Court. It had its camps at Bhopal, Indore and Jabalpur. Instead of parties going to the headquarters of the industrial court, the cases were decided in the camp courts.

<table>
<thead>
<tr>
<th>Period</th>
<th>Labour Court</th>
<th>Industrial Court</th>
<th>High Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. One month to 6 months</td>
<td>23</td>
<td>36</td>
<td>-</td>
</tr>
<tr>
<td>2. Six months to 1 year</td>
<td>57</td>
<td>8</td>
<td>-</td>
</tr>
<tr>
<td>3. One year to 2 years</td>
<td>61</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>4. Two years to 4 years</td>
<td>26</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>5. Four years and above</td>
<td>4</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>6. Pending</td>
<td>91</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>TOTAL</td>
<td>352</td>
<td>55</td>
<td>8</td>
</tr>
</tbody>
</table>

Group Industrial Disputes in Courts (HR(1))

Between 1960 and 1971, very few collective bargaining issues were referred to the courts. Thirteen cases were referred by the management. These related to the legality of the strikes. The two cases referred by the HECU related to the ministerial staff. The first dealt with half pay casual leave for urgent private work, while the second related to the revision of overtime allowance.
Adjudication in ITI

Individual Industrial Disputes Referred to Adjudication in ITI

Between 1963-74 only 40 individual cases were referred for adjudication. Thirty two cases (out of these 40) related to the dismissal of employees. These dismissals took place on charges like theft, loitering, misconduct etc. Four cases related to promotion. One of the promotion cases concerned the former Vice-President of the union. The union claimed that it was a case of victimization due to the Vice-Presidents' participation in union activity.

The court gave decisions in 22 cases, and in all these the decision went in favour of the management. Out of these 22 cases, 9 took less than one year to settle while 13 took more than a year.

Group Grievances Referred to Adjudication in ITI

For the settlement of group grievances, adjudication was quite popular with the ITI Employees Union. In case negotiations failed, the union referred the case to the court, instead of resorting to a strike. This was probably facilitated by the existence of a single-union with leadership having a non-militant attitude. The failure of the 1964 and 1966 strikes also led to loss of faith of workers in strike as a weapon to solve their problems. Some of the group grievances settled through adjudication are mentioned below:-

Dearness Allowance Case. Immediately after the failure of the December 1966 strike, the union referred the dearness allowance case to the Additional Industrial Tribunal. The union's position was that any increase in the dearness allowance by the centre
should be made available to the workers as had been the practice during 1961-64. The management discontinued payment of the additional increases in D.A. as it felt that the Wage Board Award for Engineering Industries was seized of the matter and the management would follow its decision instead of following the earlier practice. The union lost the case pending before the Additional Industrial Tribunal. The case was then referred by the union to the Supreme Court. The Supreme Court altered the decision of the tribunal in favour of the union. The settlement of the case took about three years.

**Profit Sharing Bonus Case.** The profit sharing bonus case started in December 1966, before the Additional Industrial Tribunal. The union claimed (a) profit sharing bonus in addition to the production bonus; (b) higher rate of bonus to be paid for the years 1964-65 and 1965-66 than that provided by the management. The management was not inclined to give profit sharing bonus to workers, as production bonus was already being paid. Moreover, ITI was competing for less than 20% of their sale of goods or services with other industries. The case ran for about five years. On August 6, 1971, the tribunal passed an order according to which the workers became entitled to both profit sharing bonus and production bonus. According to another award of the Tribunal dated January 10, 1973, the bonus for 1964-65 and 1965-66 stood respectively at 8.4% and 9.5% as against 4% and 4.5% already declared by the management.

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5. Section 20 of the Payment of Bonus Act, 1966, excludes monopoly industries of such type from the payment of bonus.

6. It may be noted that Govt. of India in September 1969 allowed ex-gratia profit sharing bonus to public sector industries which did not meet the requirement of competition mentioned in Section 20 of the Payment of Bonus Act.
Other Cases. Some of the other cases referred to adjudication were: (i) overtime difference case, (ii) training certificate to be considered as equivalent to diploma with some training, (iii) violation of the seniority principle (the case involved 40 workers). It was found that the involvement of the trade union in settling the collective bargaining issues through adjudication was higher in ITI than in HE(I)L.

Legal Expenses of the Union.

It has normally been said that adjudication involves lot of expenditure. It was found that legal expenses of ITI Employees Union up to 1966 were negligible, because disputes between the management and the union were usually settled through negotiations or arbitration.

<table>
<thead>
<tr>
<th>Year</th>
<th>Legal expenses of the Union (in Rs.)</th>
<th>Legal expenses as percentage of the total expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1965</td>
<td>111</td>
<td>0.9</td>
</tr>
<tr>
<td>1966</td>
<td>44</td>
<td>0.12</td>
</tr>
<tr>
<td>1967</td>
<td>8,356</td>
<td>40.3</td>
</tr>
<tr>
<td>1968</td>
<td>17,133</td>
<td>56.3</td>
</tr>
<tr>
<td>1969</td>
<td>19,524</td>
<td>47.6</td>
</tr>
<tr>
<td>1970</td>
<td>4,014</td>
<td>19.3</td>
</tr>
<tr>
<td>1971</td>
<td>3,503</td>
<td>19.0</td>
</tr>
<tr>
<td>1972</td>
<td>11,377</td>
<td>36.7</td>
</tr>
</tbody>
</table>

It will be seen (Table 8.3) that during the years 1967, 1968 and 1969, the union's legal expenses accounted for approximately half of its total expenditure for that period. This led to deficit in the budget of the Union for these years.
A large majority of the management personnel and trade union leaders interviewed in HE(I)L and ITI were in favour of collective bargaining as a method of settling industrial disputes. One management member in ITI said, "In collective bargaining there is no heart-burning. Both sides can take the credit. The management can feel proud that they have delivered the goods. The trade union can feel proud that they have got something for the workers. In a court or in arbitration, this satisfaction may not be there". A trade union leader in HE(I)L said, "Matters should be settled through negotiations between the management and the union. It is a public sector enterprise. It is the property of the nation. The relations between the management and the trade unions should be just like those among the members of a family. There should not be any outside interference". One management member in HE(I)L said, "Negotiations mean less expenditure. Men feel that they have done something. There is better appreciation of each other's point of view. Why should problems be solved by a third party"?

Some of the trade union leaders and management personnel favoured conciliation. One management member in HE(I)L said, "Conciliators are able to conduct effective negotiations. They find out better solutions to the disputes".

Some other trade union leaders in the two plants favoured arbitration instead of collective bargaining. This feeling was found more among trade union leaders of ITI as the arbitration award of Satya Narayan Sinha had gone in their favour.
None of the management personnel or the trade union leaders interviewed in both the plants favoured adjudication. One trade union leader in ITI said, "The delay involved in the decisions of courts leads to frustration amongst workers, causing demoralisation and affecting production". The President of the union in ITI said, "The characteristics of the union change as leaders had to go to lawyers and courts. It involves the union leaders' time to a great extent. The more dependence there is on adjudication, the more does the union suffer".

CONCLUSIONS

There were some statutory differences between HE(I)L and ITI in the methods of prevention and settlement of disputes. The Madhya Pradesh Industrial Relations Act, 1960, was applicable to HE(I)L, while the Industrial Disputes Act, 1947, applied to ITI.

It was found that a larger number of collective agreements between the management and the recognized union were made in HE(I)L (where the MPR Act, 1960 applied) than in ITI (where the Industrial Disputes Act 1947 applied). The conclusion of so many agreements in HE(I)L, however, led to frequent changes in the policies relating to service conditions of workers. It was also alleged that as the recognized union was weak, the management was in a position to effect changes in the policies according to its own liking.

It was also found that the involvement of the trade unions in adjudication was higher in ITI than in HE(I)L.
In III, 50% of the trade union leaders interviewed (9 out of 18) considered that their bargaining power was high. On the contrary, in HE(I)L, only 4 out of 17 leaders held that view. A large percentage of workers in ITI believed that the recognized union was successful in negotiating with the management. But that was not so in HE(I)L. In ITI a large majority of workers had faith in the union, while in HE(I)L the faith of the workers in the union was low.

(B) It was alleged that collective bargaining in HE(I)L was influenced by the interference of political leaders of the state and the centre. It was also alleged that the State Government stood by its own management at the time of a strike.

In both the plants, it was complained that collective bargaining was influenced or hampered because (a) there was lack of clear-cut delegation of authority to the management; (b) the management of the public sector plant was not bothered about losses; and (c) the management had also to take into account the repercussions of a particular agreement over other public sector plants.

(C) While a large majority of management personnel and trade union leaders in both the plants were in favour of internal settlement of disputes through collective bargaining, none of them liked adjudication as a means of solving industrial disputes.

(D) The process of adjudication was time-consuming. A majority of the cases of individual grievances in HE(I)L and ITI took more than six months to be settled. Similarly, group grievances in both the plants also took a lot of time to settle in court.
(E) Moreover, adjudication was very expensive. The major reasons for the deficit in the budget of the Indian Telephone Industries Employees Union during the years 1967, 1968 and 1972 was that it had to spend large sums of money in the shape of legal expenses on collective bargaining issues pending before the courts.

(F) A larger number of individual grievances were referred to courts in NE(I)L than in ITI.

(G) It was also found that 91% of the individual grievances in labour courts in NE(I)L and 100% of the individual grievances in ITI went in favour of the management.