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# GENESIS OF INDUSTRIAL DISPUTES SETTLEMENT LEGISLATION IN INDIA

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**Abstract:-**This Paper studies the Genesis of Industrial Disputes Settlement Legislation in India. As we know that the industries are the most productive in the growth and economy of a nation. Moreover, the internal security of a nation depends upon the efficient economy which is the outcome of industrial growth in that nation. Any nation's progress is known in terms of its development by industrial growth. Historical evidences shows that all laws relating to the industry and labours were chiefly enacted by Britishers as India remained under the British domination for over 100 years. The industrial disputes legislation enacted by Britishers was primarily intended to protect the interests of British employers. Considerations of British political economy were naturally paramount in shaping some of these early labour laws. Thereafter, Merchant Shipping Act, 1859 and Workman's Breach of Contract Act (13 of 1859) and Employers and Workman's Disputes Act, 1860 were enacted. then in 1926 The Indian Trade Unions Act, 1926 and enacted which was amended subsequently on the recommendations of Royal in the year 1932 as a result of which the Indian Trade Disputes (Amended), Act 1932 , was passed. Thereafter 1942 was adopted in January. was very important as it empowered the government to intervene in industrial disputes. While retaining most of the provisions of the Trade Disputes Act, 1929 and Rule 81A of the Defence of India Rules, the Industrial Disputes Act, 1947 was enacted which was further amended in the year 2010 to keep pace with the changing times.

**Keywords:** Industrial Disputes Settlement Legislation , growth and economy , internal security , British employers.

## 1.INTRODUCTION :-

The relationship between master and servant is ancient origin and the disputes or controversies between the two are nothing but natural and ancient. But the nature of disputes and controversies between the two has been varying from time to time. In ancient times the prevailing occupation in our country was agriculture followed by trading which was secondary at that time. Manual labour was tertiary occupation. Cottage industries mostly hereditary formed the means of livelihood of larger population.

Literary and archeological reference shows that the textile industry was highly developed in the Gupta age. As per the testimonial of Hiuen Tsang, variety of materials like silk, muslin, linen were made in seventh century. In the same century bundles of linen, woolen, silk and figured textile are mentioned by bana in the list presents sent by the king of Kamarupa to Harsha.

Ancient scriptures and laws of our country laid emphasis on promotion and maintenance of peaceful relations between the capital and labour. From the very early days craftsmen and workers felt the necessity of being united. The utility of union has been stated in Shukla Yajurveda Samhita in the following words, "of men are united, nothing can deter them". Kautilya's Arthsashtra also gives comprehensive picture of the organization and functions of the social and political institutions of India and also a fine description of union of employees, craftsmen, and artisans. In those days also there were well organized guilds, which worked according to their own by-laws for the

management of unions.

However, lesser developed organization behavior was a peculiarity under the Mughal period. During that period the labourers were entirely dependent on their masters and forced work was taken from them. Historical evidences further shows that the existence of rules of conduct and prescribed procedure for settlement of disputes existed for promoting cordial relationship between the employer and employee.

During the feudal age the relationship between master and servant was governed by the principle of "hire and fire". During that age because of the existence of basic agrarian society the land lords were having complete control over their workers and thus had liberty to dismiss the services of undesired workers at any time. Hence, the services of workmen were dependent upon the sweet will of the employers.

With the advancement of new technology in agriculture along with establishment of industries the industrialization started firstly in Great Britain and later adopted by other countries of the continent. Sweeping or tremendous transformation took place during the reign of George III, after he came to throne in 1760. This industrial revolution was the result of magnificent discoveries and inventions like, invention of steam engine ushered in the era of factories and industries, especially to cotton textile industries. Domestic industries disappeared slowly and gradually. Now the factories which were newly established needed the raw material due to which colonization of weak countries started so that raw material can be taken from these countries. As a result India proved to be jeweler chest of raw materials of cotton and indigo along with other varieties of raw materials and hence, subsequently became British colony. The first modern industry was established by the Britishers in India in 1613 and same pertained to cotton textile.

India remained under the British domination for over 100 years and all laws were relating to the industry and labours were chiefly enacted by them. During the early stage of industrialization the rule of "hire and fire" was predominantly existent, but, this rule was gradually replaced by "freedom of contract" rule. According to this new rule the service conditions of industrial workers and their tenure remained no longer pleasure tenure but became a contracted one instead. According to this new rule of "freedom of contract" both the employers and employees were bound by the conditions of employment, either expressed or implied and also the customs and usage of trade. But this rule hardly improved the conditions of employees as no restrictions existed against the employer to take any disciplinary action against employee provided that the terms of employment were not infringed. Hence, in such a situation the employee was left with no choice but to accept the terms of service, as being the only source of their livelihood. This gave clear indication of dominant position of employer over employee. This "freedom of contract" rule was considered to be soul of the English common law.

In India development of law relating to Industrial disputes were predominantly effected by the English laws because of British rule in India. The industrial disputes legislation enacted by Britishers was primarily intended to protect the interests of British employers. Considerations of British political economy were naturally paramount in shaping some of these early labour laws. The historical development of industrial disputes legislation in India can be studied in following stages:

**FIRST PHASE**

During the first phase the British government in India was largely interested in enforcing penalties for breach of contract and in regulating the condition of work with view to minimize the competitive advantages of indigenous employers against the British employers. The earliest legislation in our country relating to industrial disputes was Bengal Regulation VII of 1819. According to this law the breach of contract was a criminal offence. Thereafter Merchant Shipping Act, 1859 and Workman's Breach of Contract Act (13 of 1859) and Employers and Workman's Disputes Act, 1860 were enacted.

The Employers and Workman's Disputes Act,1860 empowered the magistrates to dispose of the disputes concerning the workmen employed and made the breach of contract a criminal offence. This Act was repealed in the year 1937, though ceased to be in use even much earlier.

Thereafter the Indian Trade Unions Act, 1926 was enacted. This Act guaranteed the workers the right to organize and gave them a legal corporate status and immunizes them from civil and criminal liability in respect of strikes. After this Act the Indian enacted. After the outbreak of First World War there was phenomenal increase in the number of industrial disputes which resulted in frequent strikes and lockouts. This necessitated the adoption of legislation for their effective settlement, but no definite step was taken till 1929, when the authorized the central government or provincial government to establish Courts, Courts of Inquiry and Board Of Conciliation with a view to investigate and settle the trade disputes and also rendered lightning the strikes in public utility concerns as a punishable offence. If the trade dispute actually existed or was apprehended, the provincial government or governor general in counsel (in case of a contract with government department or Railway Company) on the request of both could, refer the matter to The Court of Inquiry or other members who were to be either independent persons or persons appointed in equal numbers to represents tThe Board was required to make a report to the

appointing authority setting out, in case of non settlement, a full amount of the facts and the findings and its own recommendations for an effective settlement of the dispute. A Court of Inquiry was to consist of an independent chairman and such other independent persons as the appointing authority considered fit. The court was required to report its findings to these appointing authorities. In public utility services strikes and lockouts without notice were prohibited. No workman employed in public utility services was allowed to go on strikes in breach of contract without having given to his employer within one month of striking, and not less than 14 days notice in writing about his intention to go on strikes. Similarly, no employer of public utility service was to declare such lockouts. The Act also prohibited strikes and lockouts having any object rather than the furtherance of trade dispute designed or calculated to inflict severe, general and prolonged hardship on the community. Thus the political and general strikes were illegal under this Act.

**SECOND PHASE**

During this phase the Indian Trade Disputes Act was amended and royal commission on labour was constituted, which made comprehensive survey of labour problems in India and particularly the working conditions in the context of health, safety and welfare of the workers. The Royal Commission made certain recommendations in this behalf.

First legislation in this phase was the Indian Trade Disputes (Amended), Act 1932, which was a remedy to the defects of Indian Trade Disputes Act, 1929, as the Act of 1929 did not provide any protection to the members of Board of Conciliation or the Court of Inquiry in respect of disclosure of confidential information relating to industrial establishments or trade unions. They could be sued and prosecuted in respect of disclosures whether willful or accidental. Now this amendment Act required persons desiring information, to be kept confidential to make a request for the same. Even members of Court or Board were liable for prosecution only in case of the willful disclosures. In case of every prosecution only a presiding or first class magistrate could make a trial and furthermore a suit or prosecution could be instituted only upon authority appointing the Court of Inquiry or Board of Conciliation.
experimented for five years and was due to expire on May
7, 1934 with a view to make the Act permanent the Trade Disputes (Extending) Act was enacted in April, 1934.

Then after recommendations, made by Royal commission on labour, the Trade Disputes (Amendment) Act, 1938 came into existence. This Act empowered the central and provincial governments to appoint conciliation officers for in any business, industry, or undertaking. The Act enlarged definition of public service so as to include power plants, tramways, and watertransport used for carrying passengers. Besides, the provisions regarding illegal strikes and lockouts were made less restrictive and the definition of trade disputes was enlarged.

**THIRD PHASE**

In this phase were introduced by the government. The Second World War brought about rapid changes in the whole economic structures and also in the whole economic structures and also in the field of industrial relations. The necessity of keeping production at the highest level without interruption and interests of the workers to have their share in the abnormal war profits let the government to introduce the Defence of India rules in January, 1942. in effect empowered the government to make general or special orders to suit local requirements, to prohibit strikes or lockout, to refer any dispute for conciliation or adjudication, to require employers to observe such terms and enforce the condition of employment as might be specified and to decisions of adjudicators. According to Rule 81A of Defence of India Rules, "if in the opinion of central government it is necessary or expedient so to do for securing the defence of British India, the public safety, the maintenance of public order, or the efficient prosecution of war or for maintaining supplies and services essential to life of the community, applying generally or to specified areas make provisions as to:

(a)For prohibiting, the order, a strike or lock-out in the connection with any trade dispute;
(b)For requiring employers, workmen, or both to observe in order such terms
and conditions of employment as may be determined in accordance of the order;
(c)For referring trade disputes for conciliation or adjudication in the manner provided for the same in the order;
(d)For enforcing for such period as any be specified in the order decisions of the authority to whom a
trade dispute has been referred for adjudication;
(e)For any accidental or supplementary matters which appear to the central government necessary or expedient order.

But the concerned rule 81A which empowered the government to intervene disputes was due to lapse on first October 1946 after the termination of war but it was kept in force by the Emergency Provisions (Continuance)

Ordinace, 1946. War time experience of the working of the Rule however, had convinced the government that the rule was extremely useful and its incorporation in the permanent labour laws of the country would do much to check the industrial unrest which was gaining momentum owing to the stress of post war industrial readjustments. The urgent need for the creation of internal machinery to prevent the dispute at the initial stage as well as permanent machinery for adjudication of such disputes as the last resort was also realized by the government to arrest the increase of industrial conflicts of post war years. The Industrial Disputes Bill was introduced by Government of India in the legislative assembly on 28th October 1946. After the select committee report on 3rd February 1947 with some amendments it was passed in March 1947 and became the law from first April 1947, repealing While retaining most of the provisions ofwas enacted. This Act introduced new institutions for the prevention and settlement of the industrial disputes; the Works Committee consisting of the representatives of the machinery for the industrial adjudications. It also empowered the constitute Courts of Inquiry, Board of Conciliation and to appoint conciliation officers for the investigation and conciliation provided for making of reference of an industrial dispute by the government to an adjudicatory authority where demanded reference and also where the government itself considered it expedient to do so. The provisions contained in section 10A enabled too has recourse to voluntary arbitration. Tribunal or Labour Court was decided to be enforced by the government and was made Another chief feature of this law was prohibition on strikes and lockouts during the pendency of conciliation and adjudication proceedings, or even during the continuance of settlements reached in the course of the conciliation proceedings or the award of the industrial tribunals were declared binding by the appropriate government . The Act also sought to give new orientation to the entire conciliation machinery for bringing amicable settlement of the disputes between the parties before resorting to remedy from the adjudicatory forum. A series of amendments have been made in the Act to meet the changing requirements from time to time. Like in the year 2010 amendments have been made in the Act to overcome some of its shortcomings now this Act is called Industrial Disputes (Amendment) Act, 2010. According to this new amended Act change has been made in the definition section2(a) of "appropriate government", according to this amendment a percent of the paid –up- parliament, or the appropriate government is the central government. Likewise, sub-clause (ii) is amended to provide that

Furthermore, a proviso has been inserted in Section 2 for clarifying that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the Appropriate Government shall be the Central Government or the State Government, which has control over such industrial establishment.

Section 4 has also been amended to Increase in wage ceiling, now Wage ceiling of supervisor has been enhanced which means now any person working in any industry doing any manual, unskilled, skilled, technical, operational, clerical or supervisory work drawing wages up to Rs. 10000/- will be a workman. Earlier this limit was up to Rs.1600/-. By this amendment the coverage of workman has been increased and more people are now covered under the Act.

Now, as a result of amendment to Section 2 A, a workman can now directly make an application for adjudication of the dispute where it involves discharge, dismissal, retrenchment or termination of service after the expiry of he has made the application to the Conciliation Officer of the Appropriate Government for conciliation of the dispute, and shall have the power and jurisdiction to adjudicate upon such dispute, as if it were a dispute referred to it and all the provisions of the Act shall be applicable as if it were a dispute referred to it by the Appropriate Government. Now period of limitation has been given under section 6 of the Act for the application to shall be made years from the date of discharge, dismissal, retrenchment or termination of service otherwise howsoever.

Section 7 of the Act has also been amended, earlier only judicial officers were eligible to become the Judges (Presiding Officers) of Labour Court or Tribunal. But now the Deputy Chief Labour Commissioner or Joint Labour Commissioner with degree of Law & having 7 years of experience are eligible to become Judges of the

Now new Chapter II B which contains the provision regarding–Setting up of Grievance Redressal Machinery under section 8. But these provisions do not apply to workmen for whom there is an established Redressal Mechanism in the establishment concerned. According to this chapter, every industrial establishment employing twenty or more workmen shall set up a Grievance Redressal Committee The Grievance Redressal Committee shall consist of equal number of

members representing the employer and the workmen and shall not exceed more than 6 members. As far as practicable, representation should be given to women members also. The Chairperson shall be selected from the employer and the workmen alternatively on rotation basis every year. The proceedings of the Grievance Redressal Committee may be completed within 45 days on receipt of the written application by or on behalf of the aggrieved party. The workman aggrieved by the decision of the Grievance Redressal Committee shall be entitled to prefer an appeal to the employer and the employer shall dispose of the appeal within one month from the date of receipt of the appeal and send a copy of the decision to the workman concerned.

Earlier there was no such provision in the Act providing for Awards pronounced by could be executed. By insertion of Sub-Section (9) to Section 11, it is now provided that every award made, order issued or settlement arrived at by or before shall be executed in accordance with the procedure laid down for execution of orders or under Order 21 of which passed the Award, or made the Order or recorded the Settlement shall transmit such Award, Order or Settlement to the Civil Court having jurisdiction and such Civil Court shall execute the same, as if it were a decree passed by it. Hence, we can say that this new Amendment Act has now considerably adapted itself with the changing needs of the society with the changing time.

## CONCLUSION

To conclude, we can observe that industrial disputes settlement legislation have undergone radical changes over the past years as compared to other laws of the realm. This is because of the acknowledgment by the government regarding importance of amicable relations between the employer and employees in any industrial establishment. As industrial unrest is very dangerous for the growth of a nation. Though seeds of industrial disputes settlement legislation were sown by Britishers in India but government of India has played important role in the efficacy of these enactments/laws with the changing needs of the society with changing Our legislature has provided us with the Industrial Disputes (Amendment), Act 2010 as the intention behind it was to strength the economy and provide the conditions best suited for the overall development of nation. The experience shows that has performed almost each and every function which was entrusted upon it by the all wise legislature.

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