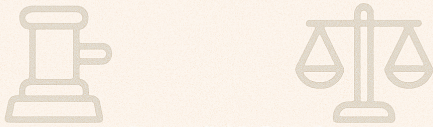


INDUSTRIAL DISPUTE AND INDUSTRIAL STANDING ORDER ACT (INDUSTRIAL RELATION LAWS)

Unit 1 - Industrial Dispute Act, 1947



INDUSTRIAL DISPUTES ACT, 1947

What: Industrial Dispute Act 1947 is a central law that deals with prevention and settlement of disputes between Employers and workers in an industry.

What is the Triple Test for determining?

Supreme Court's Triple Test helps determine whether undertaking qualified as industry or not:

- Systematic Activity** - There must be regular, organized activity b/w employer and employee.
- Irrelevance of profit motive** - The presence or absence of profit motive is irrelevant, activity shall be systematic.
- The decisive test is nature of activity**, with special focus on employer-employee relationship.

Imagine Sarang Rehabilitation Centre, Indore, which provides treatment, counselling, and vocational training to disabled persons. It is registered as a charitable trust and does not work for profit.

Now apply the Triple Test:

1. Systematic Activity:

The centre runs regular classes, therapy sessions, workshops, and counselling with proper schedules and administrative structure. This is a systematic and organized activity.

2. Profit Motive Irrelevant:

Even though the trust is not earning profits and works purely for social service, the absence of profit motive does not matter.

3. Functional Focus:

The centre has physiotherapists, teachers, trainers, ward staff, office staff, etc., working under the direction of management. There is a clear employer-employee relationship.

Therefore, applying the triple test, the rehabilitation centre qualifies as an "industry" under the Industrial Disputes Act, 1947.

What does Industrial Dispute mean?

means any difference or dispute between

- Employer vs Employer
- Employer vs workmen
- Workmen vs Workmen

What is Strike?

- Strike means cessation (stoppage) of work by group of person employed in any industry together to continue work or to accept the employment.
- Duration of strike doesn't matter, focus on collective cessation of work.
- Refusal to do work, which employer has no right to demand does not constitute strike.
- Strike doesn't terminate employer-employee relationship.

Types of Strikes

a. Stay in, Sit down, Pen down or Tool down

Workmen after taking their seat, refuse to work even when asked to leave the premise.

Such collective refusal, where workers act in combination, is considered as strike.

often called as **Primary strikes**.

b. Go-slow

- Go slow refers to deliberate slowdown of production by workmen, even though they pretend to be working.

- Although it is not technically strike (as no complete cessation), it is considered as serious misconduct.

- Employer can take action against workers.

c. Sympathetic Strike

- when work is ceased in support of demands of workmen employed by another employer.

- This is considered unjustifiable invasion of rights of employer who is not involved in the dispute.

- Employer may initiate disciplinary action for such absence.

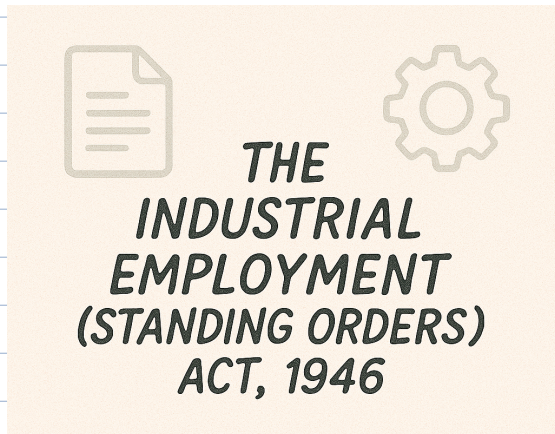
(d) Hunger strike

- Hunger strike involves fasting on or near workplace or employer's residence.
- If hunger strike is peaceful and doesn't lead to stoppage of work, it is not considered as strike. However if it causes work stoppage, may amount as strike.

(e) Work to rule

- Work to rule means workers strictly follow all rules and regulation, doing only what is required with no extra effort or flexibility.
- Since there is no cessation of work, it does not constitute as strike.

Unit 2 - Industrial Employment (Standing order) Act 1946



What: This act was enacted to require employers in industrial establishment to clearly define and communicate the **conditions** of employment to their workers.

like when they may be punished
what constitutes misconduct
when they may be suspended
how leave can be taken

what does 'Standing Order' mean?

Standing orders are **written rules** certified by govt. authority that define terms and conditions of employment in an industry.

Applicability - Applies where 100 or more workmen are employed.

Submission of Draft Standing Order (Section 3)

- within six months of act applicability, employer must submit 5 copies of draft standing order to certifying officer.
- draft order must conform to Model (standard guideline) order as given under schedule.
- Employer in similar establishment may submit joint draft.

Conditions for Certification (Section 4)

- Draft standing order shall cover every matter and should be in conformity with act.
- The certifying officer must evaluate whether standing order are fair and reasonable. ↓

If any matter is not included or unreasonable, officer must refuse certification.

Procedure for Certification (Section 5)

- upon receiving the draft from employer, certifying officer (CO) shall forward a copy to trade union (or workmen) along with notice of objection. ↓

workmen may submit objection within 15 days. ↓

After receiving objection, officer gives an opportunity for hearing to workmen or employer, makes necessary amendment and then certifies standing order. ↓

A copy of certified standing order (Approved order) is sent to both employer and employee within 7 days.

Standing order once certified, become statutory regulation, they are binding on both employer and employee.

Appeal (Section 6)

Any person aggrieved by order of CO, may prefer to file an appeal before Appellate Tribunal (AT) within 30 days. ↓

AT can either confirm or amend standing orders.

Date of operation

Standing order come into operation within 30 days after certification and after 7 days from order if appeal is filed.

Modification in Standing Order

- Once certified, employer can't modify them unilaterally.
- Any modification require agreement between employer and workmen.
- Such modification remain effective for 6 months.
- They need to apply to CO for modification.

Temporarily Application of Model Orders

- For the period starting when act become applicable until the certified standing order come into operation, Model standing order are deemed to be adopted. (initial 6 months also)

Payment of Subsistence Allowance

Where any workmen is suspended by employer pending investigation or inquiry into complaints of or charges of misconduct against him, the employer shall pay to such employees a subsistence (survival) allowance

- at the rate of fifty per cent (50%) of wages for the first ninety (90) days.

- at the rate of seventy five per cent (75%) for remaining period of suspension, if delay in completion of inquiry is not linked (related) to conduct of employee.

Matters to be provided in Standing Order

- (1) Classification of workers i.e whether permanent, temporary, probationers, etc.
- (2) Manner of intimating to workmen about wage period, hours of work, holidays, paydays, wage rate, etc.
- (3) Procedure of Attendance and late coming.
- (4) Conditions for granting the leave and authority for the same.
- (5) Requirement related to entering premises from certain gates and authority to search.
- (6) Provision regarding termination of employment and notice thereof.
- (7) Closing and reopening of establishment during stoppage of work like layoff, lockout, strike, etc.
- (8) What constitutes misconduct and suspension thereof.
- (9) Details about working of shifts like morning, night, evening.
- (10) Method of redressal for workmen regarding unfair treatment.
- (11) Any other matter as may be provided.