

## **EMPLOYEE GRIEVANCES**

### ***Nature and cause of grievance***

A grievance is a problem and submitted by an employee or several employees of different types. It may be concerning a situation or likely to affect the terms and conditions of employment of one worker or several workers.

If a problem is related to and endorsed by all or majority of employees or if trade union submits a problem as a general claim it falls outside the scope of grievance procedure and generally comes under the purview of collective bargaining.

### ***Thus, a grievance:***

Has a narrower perspective;

Is concerned with the interpretation of a contract or award as concerned to an individual or a few employees of different types. As such policy issues do not fall within the scope of grievance machinery.

### **The causes of employee grievances may include the following:**

- ✓ Demands for individual wage adjustments;
- ✓ Complaints about the incentive system;
- ✓ Complaints about the job classifications;
- ✓ Complaints against a particular foreman;
- ✓ Complaints concerning disciplinary measures and procedures;
- ✓ Objections to the general methods of supervision;
- ✓ Loose calculation and interpretation of seniority rules, and unsatisfactory interpretation of agreements;
- ✓ Promotions;
- ✓ Disciplinary discharge or lay-off;
- ✓ Transfer for another department or another shift;
- ✓ Inadequacy of safety and health services/devices;
- ✓ Non-availability of materials in time;
- ✓ Violation of contracts relating to collective bargaining;
- ✓ Improper job assignment; and
- ✓ Undesirable or unsatisfactory conditions of work.

### ***A grievance may be characterized as follows:***

#### **Factual:**

The employer-employee relationship depends upon the job contract in any organisation. This contract indicates the norms defining the limits within which the employee expects the organisation to fulfill his aspirations, needs or expectations. When these legitimate needs of expectations or aspirations are not fulfilled, the employee will be dissatisfied with the job. Such dissatisfaction is called factual grievance.

#### **Imaginary:**

When the job contract is not clear-cut and does not indicate the norms defining the limits within which the employee expects the organization fulfill his needs or aspirations, the employee develops such needs which the organisation is not obliged to meet. Under such situations, grievances are not based on facts but that does not stop the employee from feeling aggrieved. Normally, the organisation does not feel any kind of responsibility for such grievances and their redressal, because they are based not only on wrong perceptions of the employee but also on wrong information.

However, such grievances can have far-reaching consequences on the organisation as the employees are likely to develop an altogether negative attitude towards the organisation which decreases their effectiveness and involvement in work.

#### **Disguised:**

Although in most cases, organisations consider the basic requirements of their employees – sometimes

psychological needs of the employees such as need for recognition, affection, power, achievement etc., tend to go unattended and ignored. These conditions may take the shape of a disguised grievance; ultimately having a severe bearing on the health of employer-employee relationship.

## **GRIEVANCE REDRESSAL PROCEDURE**

### ***Need for a Grievance Handling Procedure:***

Grievance procedure is necessary for any organisation due to the following reasons:

- i) Most grievances seriously disturb the employees. This may affect their morale, productivity and their willingness to cooperate with the organisation.
- ii) If an explosive situation develops, this can be promptly attended to if a grievance handling procedure is already in existence.
- iii) It serves as a check on the arbitrary actions of the management because supervisors know that employees are likely to see to it that their protest does reach the higher management.
- iv) The management has complete authority to operate the business as it sees fit subject, of course, to its legal and moral obligations and the contracts it has entered into with its workers or their representative trade union. But if the trade union or the employees do not like the way the management functions, they can submit their grievance in accordance with the procedure laid down for that purpose.
- v) It serves as an outlet for employee gripes, discontent and frustrations. It acts like a pressure valve on a steam boiler. The employees are entitled to legislative, executive and judicial protection and they get this protection from the grievance redressal procedure, which also acts as a means of upward communication.
- vi) It is not possible that all the complaints of the employees would be settled by first-time supervisors, for these supervisors may not have had a proper training for the purpose, and they may lack authority. Moreover, there may be personality conflicts and other causes as well.

### **Essential Pre-requisites of a Grievance Handling Procedure:**

The grievance procedure, to be sound and effective should possess certain pre-requisites:

- ✓ **Conformity with Statutory Provisions:** Due consideration must be given to the prevailing legislation while designing the grievance handling procedure.
- ✓ **Unambiguity:** Every aspect of the grievance handling procedure should be clear and unambiguous. All employees should know whom to approach first when they have a grievance, whether the complaint should be written or oral, the maximum time in which the redressal is assured, etc.
- ✓ **Simplicity:** The grievance handling procedure should be simple and short. If the procedure is complicated it may discourage employees and they may fail to make use of it in a proper manner.
- ✓ **Promptness:** The grievance of the employee should be promptly handled and necessary action must be taken immediately. This is good for both the employee and management, because if the wrong doer is punished late, it may affect the morale of other employees as well.
- ✓ **Training:** The supervisors and the union representatives should be properly trained in all aspects of grievance handling before hand or else it will complicate the problem.
- ✓ **Follow up:** The Personnel Department should keep track of the effectiveness and the functioning of grievance handling procedure and make necessary changes to improve it from time to time.

### **Basic Elements of a Grievance Handling Procedure:**

The basic elements of a grievance redressal procedure are:

The existence of a sound channel through which a grievance may pass for redressal if the previous stage or channel has been found to be inadequate, unsatisfactory or unacceptable. This stage may comprise three, four or five sub-stages.

The procedure should be simple, definite and prompt, for any complexity or vagueness or delay may lead

to an aggravation of the dissatisfaction of the aggrieved employee.

The steps in handling a grievance should be clearly defined.

These should comprise:

- ✓ Receiving and defining the nature of the grievance;
- ✓ Getting at the relevant facts, about the grievance;
- ✓ Analysing the facts, after taking into consideration the economic, social, psychological and legal issues involved in them;
- ✓ Taking an appropriate decision after a careful consideration of all the facts; and Communicating the decisions, to the aggrieved employee.

Whatever the decision, it should be followed up in order that the reaction to the decision may be known and in order to determine whether the issue has been closed or not.

***Some of the major industrial dispute settlement machinery are as described:- 1. Conciliation 2. Court of Inquiry 3. Voluntary Arbitration & 4. Adjudication. This machinery has been provided under the Industrial Disputes Act, 1947. It, in fact, provides a legalistic way of setting the disputes. As said above, the goal of preventive machinery is to create an environment where the disputes do not arise at all.***

**This machinery comprises following organs:**

1. Conciliation
2. Court of enquiry.
3. Voluntary arbitration
4. Adjudication (Compulsory arbitration)

### **1. Conciliation**

Conciliation is a form of mediation. Mediation is the act of making active effort to bring two conflicting parties to compromise. Mediation, however, differs from conciliation in that whereas conciliator plays only a passive and indirect role, and the scope of his functions is provided under the law, the mediator takes active part and the scope of his activities are not subject to any statutory provisions.

Conciliation is the practice by which the services of a neutral party are used in a dispute as a means of helping the disputing parties to reduce the extent of their differences and to arrive at an amicable settlement of agreed solution. The Industrial Disputes Act, 1947 provides for conciliation, and can be utilised either by appointing conciliation officers (permanently or for a limited period) or by constituting a board of conciliation.

This conciliation machinery can take a note of a dispute or apprehend dispute either on With a view to expediting conciliation proceeding, time-limits have been prescribed-14 days in the case of conciliation officers and two months in the case of a board of conciliation, settlement arrived at in the course of conciliation is binding for such period as may be agreed upon between the parties or for a period of 6 months and with continue to be binding until revoked by either party. The Act prohibits strike and lockout during the pendency of conciliation proceedings before a Board and for seven days after the conclusion of such proceedings.

**Conciliation Officer:** The law provides for the appointment of Conciliation Officer by the Government to conciliate between the parties to the industrial dispute. The Conciliation Officer is given the powers of a civil court, whereby he is authorised to call the witness the parties on oath. It should be remembered, however, whereas civil court cannot go beyond interpreting the laws, the conciliation officer can go behind the facts and make judgment which will be binding upon the parties.

On receiving information about a dispute, the conciliation officer should give formal intimation in writing to the parties concerned of his intention to commence conciliation proceedings from a specified date. He

should then start doing all such things as he thinks fit for the purpose of persuading the parties to come to fair and amicable settlement of the dispute.

Conciliation is an art where the skill, tact, imagination and even personal influence of the conciliation officer affect his success. The Industrial Disputes Act, therefore, does not prescribe any procedure to be followed by him. The conciliation officer is required to submit his report to the appropriate government along with the copy of the settlement arrived at in relation to the dispute or in case conciliation has failed, he has to send a detailed report giving out the reasons for failure of conciliation. The report in either case must be submitted within 14 days of the commencement of conciliation proceedings or earlier.

But the time for submission of the report may be extended by an agreement in writing of all the parties to the dispute subject to the approval of the conciliation officer. If an agreement is reached (called the memorandum of settlement), it remains binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months from the date on which the memorandum of settlement is signed by the parties to the dispute, and continues to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the party or parties to the settlement. Board of Conciliation In case Conciliation Officer fails to resolve the differences between the parties, the government has the discretion to appoint a Board of Conciliation.

The Board is tripartite and ad hoc body. It consists of a chairman and two or four other members. The chairman is to be an independent person and other members are nominated in equal number by the parties to the dispute. Conciliation proceedings before a Board are similar to those that take place before the Conciliation Officer. The Government has yet another option of referring the dispute to the Court of Inquiry instead of the Board of Conciliation.

The machinery of the Board is set in motion when a dispute is referred to it. In other words, the Board does not hold the conciliation proceedings of its own accord. On the dispute being referred to the Board, it is the duty of the Board to do all things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement. The Board must submit its report to the government within two months of the date on which the dispute was referred to it. This period can be further extended by the government by two months.

## **2. Court of Inquiry**

In case of the failure of the conciliation proceedings to settle a dispute, the government can appoint a Court of Inquiry to enquire into any matter connected with or relevant to industrial dispute. The court is expected to submit its report within six months. The court of enquiry may consist of one or more persons to be decided by the appropriate government. The court of enquiry is required to submit its report within a period of six months from the commencement of enquiry.

This report is subsequently published by the government within 30 days of its receipt. Unlike during the period of conciliation, workers' right to strike, employers right to lockout, and employers right to dismiss workmen, etc. remain unaffected during the proceedings in a court of enquiry. A court of enquiry is different from a Board of Conciliation. The former aims at inquiring into and revealing the causes of an industrial dispute. On the other hand, the latter's basic objective is to promote the settlement of an industrial dispute. Thus, a court of enquiry is primarily fact-finding machinery.

## **3. Voluntary Arbitration**

On failure of conciliation proceedings, the conciliation officer may persuade the parties to refer the dispute to a voluntary arbitrator. Voluntary arbitration refers to getting the disputes settled through an independent person chosen by the parties involved mutually and voluntarily. In other words, arbitration offers an opportunity for a solution of the dispute through an arbitrator jointly appointed by the parties to the dispute.

The process of arbitration saves time and money of both the parties which is usually wasted in case of adjudication. Voluntary arbitration became popular as a method of settling differences between workers and

management with the advocacy of Mahatma Gandhi, who had applied it very successfully in the Textile industry of Ahmedabad. However, voluntary arbitration was lent legal identity only in 1956 when Industrial Disputes Act, 1947 was amended to include a provision relating to it.

The provision for voluntary arbitration was made because of the lengthy legal proceedings and formalities and resulting delays involved in adjudication. It may, however, be noted that arbitrator is not vested with any judicial powers. He derives his powers to settle the dispute from the agreement that parties have made between themselves regarding the reference of dispute to the arbitrator. The arbitrator should submit his award to the government.

The government will then publish it within 30 days of such submission. The award would become enforceable on the expiry of 30 days of its publication. Voluntary arbitration is one of the democratic ways for settling industrial disputes. It is the best method for resolving industrial conflicts and is a close supplement to collective bargaining. It not only provides a voluntary method of settling industrial disputes, but is also a quicker way of settling them. It is based on the notion of self-government in industrial relations.

Furthermore, it helps to curtail the protracted proceedings attendant on adjudication, connotes a healthy attitude and a developed outlook; assists in strengthening the trade union movement and contributes for building up sound and cordial industrial relations.

#### **4. Adjudication:**

The ultimate remedy for the settlement of an industrial dispute is its reference to adjudication by labour court or tribunals when conciliation machinery fails to bring about a settlement. Adjudication consists of settling disputes through intervention by the third party appointed by the government.

The law provides the adjudication to be conducted by the Labour Court, Industrial Tribunal or National Tribunal. A dispute can be referred to adjudication if both the employer and the recognised union agree to do so. A dispute can also be referred to adjudication by the Government even if there is no consent of the parties in which case it is called compulsory adjudication. As mentioned above, the dispute can be referred to three types of tribunals depending on the nature and facts of dispute in questions.

*These include:*

- (a) Labour courts,*
- (b) Industrial tribunals,*
- (c) National tribunals.*

The procedure, powers, and provisions regarding commencement of award and period of operation of award of these three bodies are similar. The first two bodies can be set up either by State or Central Government but the national tribunal can be constituted by the Central Government only, when it thinks that the adjudication of a dispute is of national importance. These three bodies are hierarchical in nature.

It is the Government's prerogative to refer a dispute to any of these bodies depending on the nature of dispute.

##### **(a) Labour Court:**

A labour court consists of one person only, who is normally a sitting or an ex-judge of a High Court. It may be constituted by the appropriate Government for adjudication of disputes which are mentioned in the second schedule of the Act.

*The issues referred to a labour court may include:*

- (i) The propriety or legality of an order passed by an employer under the Standing Orders.
- (ii) The application and interpretation of Standing Orders.
- (iii) Discharge and dismissal of workmen and grant of relief to them
- (iv) Withdrawal of any statutory concession or privilege.
- (v) Illegality or otherwise of any strike or lockout.



(vi) All matters not specified in the third schedule of Industrial Disputes Act, 1947. (It deals with the jurisdiction of Industrial Tribunals).

**(b) Industrial Tribunal:**

Like a labour court, an industrial tribunal is also a one-man body. The matters which fall within the jurisdiction of industrial tribunals are as mentioned in the second schedule or the third schedule of the Act. Obviously, industrial tribunals have wider jurisdiction than the labour courts. Moreover an industrial tribunal, in addition to the presiding officer, can have two assessors to advise him in the proceedings; the appropriate Government is empowered to appoint the assessors.

***The Industrial Tribunal may be referred the following issues:***

1. Wages including the period and mode of payment.
2. Compensatory and other allowances.
3. Hours of work and rest intervals.
4. Leave with wages and holidays.
5. Bonus, profit sharing, provident fund and gratuity.
6. Shift working otherwise than in accordance with the standing orders.
7. Rule of discipline.
8. Rationalisation.
9. Retrenchment.
10. Any other matter that may be prescribed.

**(c) National Tribunal:**

The Central Government may constitute a national tribunal for adjudication of disputes as mentioned in the second and third schedules of the Act or any other matter not mentioned therein provided in its opinion the industrial dispute involves questions of national importance or the industrial dispute is of such a nature that undertakings established in more than one state are likely to be affected by such a dispute.

The Central Government may appoint two assessors to assist the national tribunal. The award of the tribunal is to be submitted to the Central Government which has the power to modify or reject it if it considers it necessary in public interest.

## **Standing Orders**

**According to** Industrial Employment (Standing Orders) Act, 1946 - Section 2(g) “**Standing orders**” means rules relating to matters set out in the Schedule;

‘Standing Orders’ means rules of conduct for workmen employed in industrial establishments.

The object of the Act is to require employers in industrial establishments to formally define conditions of employment under them.

***MATTERS TO BE PROVIDED IN STANDING ORDER UNDER THIS ACT***

1. Classification of workmen, e.g. whether permanent, temporary, apprentices, probationers, or badlis.
2. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of procedure in applying for, and the authority which may grant, leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and re-opening of sections of the industrial establishment, and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workmen.
9. Suspension or dismissal for misconduct, and acts or omissions, which constitute misconduct.
10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter, which may be prescribed.

# DISCIPLINE

## Meaning of Discipline:

The word “discipline” is derived from the Latin word “disciplina”, which means teaching, learning and growing. Discipline is one of the most important aspects involved in maintaining a harmonious human relation in an organisation. It is not possible for an organisation to survive and sustain without discipline. Maintenance of discipline is necessary at all levels of the organisation. Discipline is the process of training an employee so that he can develop self-control and can become more effective in his work.

According to Richard D. Calhoun, “Discipline may be considered as a force that promotes individuals or groups to observe the rules, regulations and procedures which are deemed to be necessary for the effective functioning of an organisation.”

## Objectives of Discipline:

The main objectives for the establishment of discipline in an organisation are:

- ✓ **To obey rules and regulations:** The main objective of discipline is to obey the rules and regulations of the organisation, so that it becomes convenient to get things done through a large group of employees, which helps in attaining the organisational goal effectively.
- ✓ **Certainty:** Discipline amongst employees ensures element of certainty in the organisation despite of different variances.
- ✓ **Efficiency:** Obedience of rules and regulations leads to smooth functioning of the activities performed by the employees, hence enhancing the efficiency level.
- ✓ **Mutual respect:** One of the major objectives of discipline is to create a conducive work climate, which results in mutual respect amongst the employees in an organisation.
- ✓ **Organisational harmony:** To develop harmonious environment within the organisation, this enables the employees to attain better interpersonal understandings.

## PRINCIPLES FOR MAINTENANCE OF DISCIPLINE

The following principles should be followed in an organisation to maintain discipline:

- **Clear objectives:** The objectives of an organisation should be clearly defined to the employees and also the level of output aspired from an employee should be specified.
- **Specific rules and regulations:** Set of rules and regulations should be framed in consultation with the employees. The organisation should then function in accordance with these set of rules and regulations.
- **Proper communication:** All the rules and regulations should be properly communicated to the employees, helping the employees in better understanding of the rules and regulations. It results in better interpersonal relations among the employees.
- **Provision of investigation:** The set of rules and regulations should also incorporate a provision for investigation, which can help in case of grievance redressal.
- **Prevention of breach of discipline:** The primary objective of establishment of rules and regulations in an organisation is not to levy penalty but to maintain a proper functioning of the organisation. It should always emphasise on prevention of breach of discipline.
- **Self discipline:** The management should be responsible to not promote any act that may encourage the employees to breach discipline. They must focus on self discipline, as their own conduct should lead an example for the rest to follow.
- **Specific enforcement authority:** The authority for enforcement of discipline must be specified. Also the procedure for appeal against any disciplinary actions should be provided to the employees.
- **Rules , regulations must be periodically appraised :** All the rules and regulations should be periodically evaluated and appraised.

- **Discipline action should not be vindictive:** Disciplinary action should not be taken to victimize employees, rather the main objective should be to prevent its reoccurrence.
- **Suitable grievance procedure:** The grievance redressal procedure should be so designed that it is convenient and prompt. The grievance redressal should not be delayed as it leads to chaos and confusion among the employees.
- **Constitution of discipline committee:** A discipline committee should be constituted to look after the matter concerning indiscipline in an organisation and give suitable suggestions to avoid reoccurrence.
- **Extent of punishment must be known:** The prescribed punishment relating to indiscipline must be known.

## **TYPES OF DISCIPLINE**

A disciplinary action is the means by which the various procedures are used to bring about the controlled state of affairs. The types of discipline are: Positive or self Discipline, Negative or Enforced Discipline, task Discipline, group discipline and Imposed Discipline. Let us discuss this in detail.

**Positive or Self –Discipline:** Self discipline is a willing and instinctive sense of responsibility that leads on employee to know what needs to be done. Getting to work on time, knowing the job, setting priorities, and denying personal preferences for more important ones all measure how self disciplined you are. This is the highest order of all disciplines because it springs from the values you use to regulate and control your actions. The ideal situation is to motivate cadets to willingly discipline themselves, and exercise self control and direction to accomplish the task.

**Negative or Enforced Discipline:** Negative Discipline is also called ‘enforced discipline’. In case of negative discipline, employees are forced to obey orders and abide by rules and regulations that have been laid down, failing which penalties and punishment would be imposed on them. Thus, the objective of using negative discipline is to ensure that employees do not violate rules and regulations formed by the organisation. In other words, the purpose of negative discipline is to scare other employees and to ensure that they do not indulge in undesirable behaviour.

**Task Discipline:** Task discipline is a measure of how well you meet the challenges of your job. Task discipline requires that you have a strong sense of responsibility to do your job to the best of your ability.

**Group Discipline:** Group discipline means teamwork. Most jobs require that several people work effectively as a team, group discipline is very important.

**Imposed Discipline:** Imposed discipline is the enforced obedience to legal orders and regulations. This type of discipline provides the structure and good order necessary throughout the organisation to accomplish a task regardless of any situation.

## **ESSENTIALS OF A GOOD DISCIPLINARY SYSTEM**

- **Defined rules:** All the employees irrespective of their positions in the organisation should be well versed in the organisational rules and regulations, enabling them to understand the and obey the instructions. All instructions should be clear and understandable. The supervisor particularly is responsible to make the employees understand about it.
- **Promptness:** Misconduct or any violation of rules must be quickly addressed. The more the delay the more it creates a situation of chaos and confusion among the employees.
- **Non vindictive approach:** Disciplinary action must be non vindictive in approach, which means the misconduct must be properly enquired and punishments should be in compliance to the misconduct or violations. Also it should be kept in mind that the employee should be given an opportunity to explain his action. The common law principle that an offender is innocent until he is proved guilty beyond doubt should be followed.
- **Clear procedure:** All the procedures which are followed to address a grievance or penalty decision should be clearly laid down, without any prejudice. Also emphasis should be laid on gathering the facts. Some of the factors that should be considered during the procedure may include the magnitude of the issue, the frequency of occurrence of such issues, previous decisions on taken on similar issues, the track record of the employee concerned.



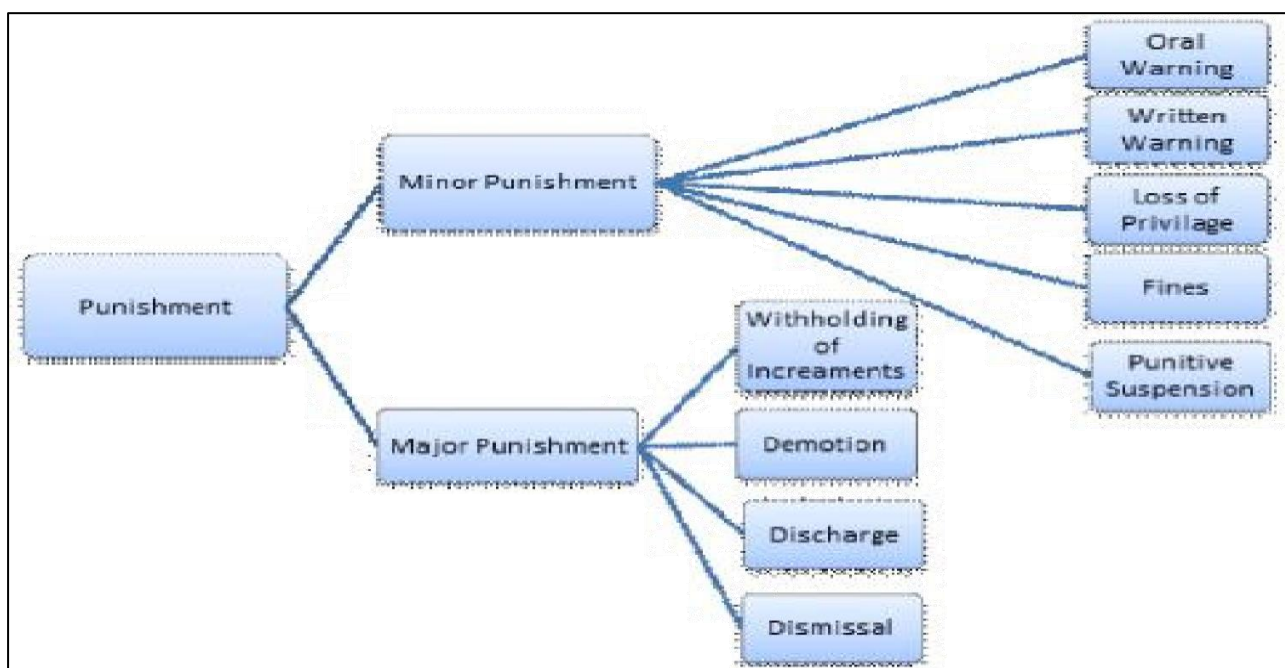
- **Proper handling of disciplinary action:** The handling of disciplinary action is also an important component of a good disciplinary action system. The disciplinary action should be in a constructive manner. Also it should be maintained that the disciplinary action should be taken in private, as any public involvement would demean the employee and hamper his/her social standing.

## DISCIPLINARY ACTION

**Disciplinary action** is a process to improve indisciplined behavior or performance, when other methods such as counseling and performance appraisal have not been effective.

The term 'disciplinary action' refers to any conditioning of future behaviour by the application of either rewards or penalties. This approach includes positive motivational activities, such as praise, participation and incentive pay, as well as negative motivational techniques, such as reprimand, layoff, and fines.

### *Punishment for Disciplinary Action*



- **Oral warning:** It is the least strict disciplinary action, where the supervisor or the immediate senior warns the employee about his unacceptable behavior.
- **Written warning:** In case misconduct is frequently repeated by the employee, management can issue a written warning, bawaring the employee of the consequences.
- **Loss of privileges:** In case of repetitive misconduct an employee might lose the privileges like selection of job assignments, right to select machine etc.
- **Fines:** Fine is the deduction in remuneration of an employee, as a penalty of any unnecessary activity or misconduct.
- **Punitive suspension:** Under punitive suspension an employee is prohibited from performing the duties assigned to him and his wages are withheld for as long as the prohibition exists.
- **Major Punishments:**
- **Withholding of increments:** It is a major punishment; it stops or deducts the increments of an employee enjoyed in his service. It is equivalent to the  $(\text{amount of increment}) \times (12 \text{ months}) \times (\text{number of years of service remaining})$ .

- **Demotion:** Demotion is the reduction in the position of an employee from the currently working position. Demotion can be used only when the employee does not meet the requisite qualifications as per present scenario.
- **Discharge:** Discharge is a mutual process of termination of job, where the employee is not accused of any misconduct and is discharged from the job when both the parties have agreed to a common contract.
- **Dismissal:** As far as an organisation is concerned, dismissal is the capital punishment. Dismissal makes itself a disqualification for future employment, which is not so in case of discharge.

## Procedures for Disciplinary Action

The following are the procedures followed for disciplinary actions:

- **Preliminary investigation:** It is done to find out whether a case of misconduct has occurred or the allegations raised are false.
- **Charge sheet issuance:** A charge sheet issues a list of allegations raised on the employee and ask the employee for an explanation on the allegations.
- **Explanation of the employee:** If the explanation of the employee is satisfactory then no disciplinary action is taken.
- **Issuance of show cause notice:** When the management is convinced that there are enough evidences, then they can issue a show cause notice to the employee, to give clarifications on the charges levied on the employee.
- **Suspension :** If the charges levied are of grave nature, then the employee is immediately suspended with half the amount of remuneration till the charges are being proved.
- **Notification and Performing the enquiry:** The management forms an enquiry committee which sends a notice for enquiry to the employee, mentioning the name of enquiry officer, time, date and place of enquiry etc. The enquiry is performed without any prejudice, allowing the accused of an opportunity to defend the charges. The enquiry officer should record the findings of the enquiry and submit their report to the management.
- **Passing of the final order of punishment:** on the basis of the enquiry report, the management decides the final punishment. But they also consider the employee's past record and gravity of the charges.

## Industrial Disputes Act, 1947

An Industrial Dispute may be defined as a conflict or difference of opinion between management and workers on the terms of employment. When an industrial dispute occurs, both the parties, that is the management and the workmen, try to pressurize each other. The management may resort to lockouts while the workers may resort to strikes, picketing or gheraos.

### Definition Of Industrial Disputes

According to Section 2(k) of the **Industrial Disputes Act, 1947**, “Any disputes or differences between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person”.

### Nature of Industrial Dispute

There must be difference of opinion or a dispute:

- ✓ Between employers (such as wage-welfare where labour is scarce).
- ✓ between employers and workmen (such as demarcation disputes).
- ✓ between workmen and workmen.

The subject matter is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person, or it must pertain to any industrial matter.

The relationship between the employer and the workman must be in existence and should be the result of a contract and the workman actually employed.

### **Scope of Industrial Dispute**

Industrial disputes are considered to overcome the disagreement made between employer and employee in industrial relation.

- ✓ It Act as an connectivity between firm and the protesters for inappropriate consequences.
- ✓ Industrial dispute perform the high degree of trust to be made in order to make propensity for communication made for conflict.
- ✓ To handle the desired situation through lockout, strikes, picketing, bans etc; which are highly applicable to maintain the situation.

## ***Causes of Industrial Disputes***

**Industrial Factors:** The industrial factors that cause industrial disputes are as follows:

**Nature of employment:** The employment methods or policies followed by the organizations in employing an individual may sometimes be the reasons for the conflict/dispute.

**Work and its nature:** The type of work, unpleasant working conditions, non-availability of machinery to do the work, working hours etc., may lead to industrial strike.

**Management attitude towards employees:** The management practices which are not in accordance with legal requirements and which are unfair to employees are the sources of disputes such as:

- ✓ Discriminatory labour policies.
- ✓ Ineffective leadership/supervision.

**Government machinery:** Through government acts as a balance between the management and workers in setting the disputes, sometimes it also tends to become the causes of industrial disputes.

**Political interference:**

- ✓ Politics influencing the trade union movement.
- ✓ Political instability.
- ✓ Strained central-state relations.
- ✓ Existence of multiple labour laws.

**Economic cause:**

- ✓ Economic reasons, such as the below mentioned, may also result in an industrial dispute:
- ✓ Low wages.
- ✓ Dearness allowances (DA) and bonus.
- ✓ Increasing industrial profits.

**Thus, the causes of Industrial disputes may be summed up as follows:**

- Low income: Many times, the income of a worker is not enough to keep everyone in the family content and to pay all the bills. Thus, if the earning member loses his/her job, the entire family suffers in poverty.
- Low wages cause discontent in employees. Moreover, with every prices rise, it is also expected that the income of industrial labourers increase, which may not always happen very promptly.
- Most industries have unhygienic and unsafe working conditions. This puts pressure on workers' health.
- Employees find it extremely difficult to get leave with pay.
- Employees are becoming more and more conscious about self-respect. Tempers flare when they are insulted or instigated by their superiors.
- Sometimes, employees are unfairly relieved from their jobs. Nevertheless, their colleagues unite and fight for the rehiring of their relieved colleagues.
- Sometimes, trade unions are not recognized by industries resulting in strained relations and stress.
- Replacement of workers by machinery is often found to be a cause of discontent. Workers are

- get laid off and replaced by machines that do the same work.
- Political involvement in trade unions causes divisions and unnecessary tensions at times.
- Disputes may also arise due to dishonest mid-level management.
- This management prevent labourers from contacting senior management, and act as middle-men. Lack of communication causes distrust.

## Consequences of Industrial Conflicts:

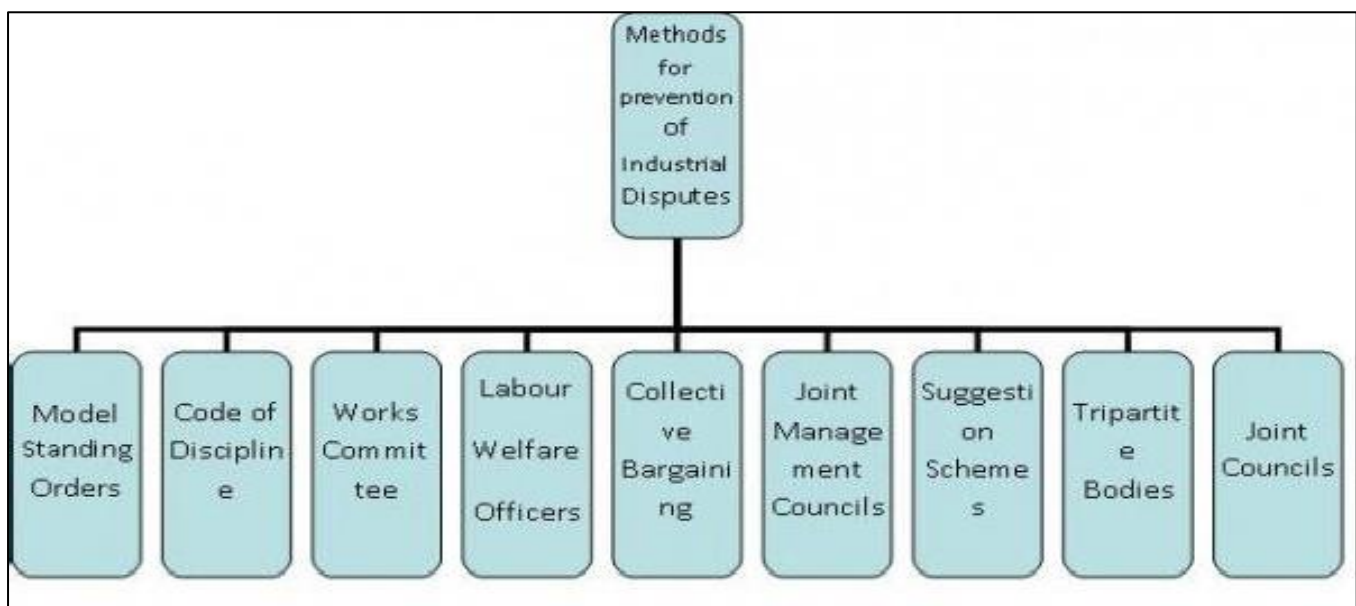
- ✓ Unrest and unnecessary tensions engulf the hearts and minds of all the people involved - labourers and senior management.
- ✓ There is economic loss due to conflicts because conflicts may result in strikes and lock-outs. This causes low or no production resulting in industrial loss.
- ✓ Industrial losses may cause economic depression because many industries are interlinked. A problem in one industry may drastically affect another industry.
- ✓ The lives of low-level labourers become worse when they are out of work. They may be the only working members of the family, and their joblessness may lead everyone in the family to poverty.
- ✓ When industrial conflicts get out of hand, they become a threat to peace and security. Workers may resort to violence and indulge in sabotage.

## PREVENTION AND SETTLEMENT OF INDUSTRIAL DISPUTE IN INDIA

The consequences of an Industrial dispute prove to be harmful to not only the owners of industries and the workers, but also to the economy and the nation as a whole resulting in loss of productivity, profits, market share and even closure of the plant. Hence, Industrial disputes need to be averted by all means. Prevention of Industrial disputes is a pro-active approach in which an organisation undertakes various actions through which the occurrence of Industrial disputes is prevented.

Fig: Methods of Dispute Prevention

**Model Standing Orders:** Under Industrial Dispute Act, 1947, every factory employing 100 workers or



more is required to frame standing orders in consultation with the workers. These orders must be certified and displayed properly by the employer for the information of the workers.

Standing orders define and regulate terms and conditions of employment and bring about uniformity in them. They also specify the duties and responsibilities of both employers and employees thereby regulating standards of their behaviour.

**Code of Industrial discipline:** The code of Industrial discipline defines duties and responsibilities of employers and workers. The objectives of the code are:

- ✓ To secure settlement of disputes by negotiation, conciliation
- ✓ and voluntary arbitration.
- ✓ To eliminate all forms of coercion, intimidation and violence.

- ✓ To maintain discipline in the industry.
- ✓ To avoid work stoppage.
- ✓ To promote constructive co-operation between the parties concerned at all levels.

**Works Committee:** Every industrial undertaking employing 100 or more workers is under an obligation to set up a works committee consisting equal number of representatives of employer and employees. According to Indian Labour Conference work committees are concerned with:-

- ✓ Administration of welfare & fine funds.
- ✓ Educational and recreational activities.
- ✓ Safety and accident prevention
- ✓ Occupational diseases and protective equipment.
- ✓ Conditions of work such as ventilation, lightening, temperature & sanitation including latrines and urinals.
- ✓ Amenities such as drinking water canteen, dining rooms, medical & health services.

However, the following items are excluded from the preview of the work committees.

Wages and allowances

- ✓ Profit sharing and bonus
- ✓ Programs of planning and development
- ✓ Retirement benefits
- ✓ PF and gratuity
- ✓ Housing and transport schemes
- ✓ Incentive schemes
- ✓ Retirement and layoff

**Joint Management Councils:** It consists of equal numbers of workers and employers representation (minimum 6 & maximum 12). Representation of workers to the JMCs should be based on the nomination by the representation.

The decisions of the JMC should be unanimous and should be implemented without any delay. JMC should look after 3 main areas:-

- ✓ Information sharing
- ✓ Consultative
- ✓ Administrative

The primary objectives of the JMC may be stated thus:

- ✓ Satisfy the psychological needs of workers
- ✓ Improve the welfare measures
- ✓ Increase workers efficiency
- ✓ Improve the relation and association between workers, managers and promoters.

**Suggestion Schemes:** As the name suggests, these are schemes wherein the parties to a dispute offer their suggestions for solution based on which mutually agreeable decisions are encouraged.

**Joint Councils:** Joint Councils are set up for the whole unit and deals with matters relating optimum production and efficiency and the fixation of productivity norms for man and machine for every industrial unit employing 500 and more workers. The features of these councils include:

Members of the council must be actually engaged in the unit.

- ✓ The chief executive of the unit will be the chairman of the council and vice chairman will be nominated by worker members.
- ✓ Term of the council will be two years.
- ✓ JC shall meet at once in a quarter.
- ✓ Decision of the council will be based on consensus and not on voting.
- ✓ The Joint Councils have the following functions to deliver:
- ✓ Optimum use of raw materials and quality of finished products
- ✓ Optimum production, efficiency and function of productivity norms of man and machine as a whole.



- ✓ Preparation of schedules of working hours and of holidays.
- ✓ Adequate facilities for training.
- ✓ Rewards for valuable and creative suggestions received from workers.

**Collective Bargaining:** Collective Bargaining involves discussion and negotiation between two groups as to the terms and conditions of employment. It is a process in which the representatives of the employer and of the employees meet and attempt to negotiate a contract governing the employer-employee-union relationships.

**Labour welfare officer:** The factories Act, 1948 provides for the appointment of a labour welfare officer in every factory employing 500 or more workers. The officer looks after all facilities in the factory provided for the health, safety and welfare of workers. He maintains liaison with both the employer and the workers, thereby serving as a communication link and contributing towards healthy industrial relations through proper administration of standing orders, grievance procedure etc.

**Tripartite bodies:** Several tripartite bodies have been constituted at central, national and state levels. At the central level, The India Labour Conference, Standing Labour Committees, Wage Boards and Industries Committees operate whereas at the state level, State Labour Advisory Boards have been set statutory.

### ***Machinery for Settlement of Industrial Disputes:***

**Conciliation:** Conciliation is a type of state intervention in settling the Industrial Disputes. The Industrial Disputes Act empowers the Central & State governments to appoint conciliation officers and a Board of Conciliation as and when the situation demands.

Conciliation refers to the process by which representatives of employees and employers are brought together before a third party with a view to discuss, reconcile their differences and arrive at an agreement through mutual consent. The third party acts as a facilitator in this process. The appropriate government may, by notification in the official gazette, appoint such number of persons as it thinks fit to be the conciliation officer.

#### ***The duties of a conciliation officer are:***

- ✓ To hold conciliation proceedings with a view to arrive at amicable settlement between the parties concerned.
- ✓ To investigate the dispute in order to bring about the settlement between the parties concerned.
- ✓ To send a report and memorandum of settlement to the appropriate government.
- ✓ To send a report to the government stating forth the steps taken by him in case no settlement has been reached at.

The conciliation officer however has no power to force a settlement. He can only persuade and assist the parties to reach an agreement. The Industrial Disputes Act prohibits strikes and lockouts during that time when the conciliation proceedings are in progress.

**Arbitration:** It is a process in which a neutral third party listens to the disputing parties, gathers information about the dispute, and then takes a decision which is binding on both the parties. Certain advantages of this process are:

- ✓ It is established by the parties themselves and therefore both parties have good faith in the arbitration process.
- ✓ The process is informal and flexible in nature.
- ✓ It is based on mutual consent of the parties and therefore helps in building healthy Industrial Relations.
- ✓ However, the process is not devoid of flaws. Some of the disadvantages include:
- ✓ Delay often occurs in settlement of disputes.
- ✓ Arbitration is an expensive procedure and the expenses are to be shared by the labour and the management.
- ✓ Judgement can become arbitrary when the arbitrator is incompetent or biased.

**Arbitration may take the following two forms:**

- ✓ **Voluntary Arbitration:** In voluntary arbitration the arbitrator is appointed by both the parties through mutual consent and the arbitrator acts only when the dispute is referred to him.
- ✓ **Compulsory Arbitration:** Implies that the parties are required to refer the dispute to the arbitrator whether they like him or not. Usually, when the parties fail to arrive at a settlement voluntarily, or when there is some other strong reason, the appropriate government can force the parties to refer the dispute to an arbitrator.

**Adjudication:** Adjudication means intervention of a legal authority appointed by the government to make a settlement which is binding on both the parties. In other words adjudication means a mandatory settlement of an Industrial dispute by a labour court or a tribunal. For the purpose of adjudication, the Industrial Disputes Act provides a 3- tier machinery:

- ✓ Labour court
- ✓ Industrial Tribunal
- ✓ National Tribunal

**Labour Court:** The appropriate government may, by notification in the official gazette constitute one or more labour courts for adjudication of Industrial disputes relating to any matters specified in the second schedule of Industrial Disputes Act. They are:

- ✓ Dismissal or discharge or grant of relief to workmen wrongfully dismissed.
- ✓ Illegality or otherwise of a strike or lockout.
- ✓ Withdrawal of any customary concession or privileges.

Where an Industrial dispute has been referred to a labour court for adjudication, it shall hold its proceedings expeditiously and shall, within the period specified in the order referring such a dispute, submit its report to the appropriate government.

**Industrial Tribunal:** The appropriate government may, by notification in the official gazette, constitute one or more Industrial Tribunals for the adjudication of Industrial disputes relating to the following matters:

- ✓ Wages
- ✓ Compensatory and other allowances
- ✓ Hours of work and rest intervals
- ✓ Leave with wages and holidays
- ✓ Bonus, profit-sharing, PF etc.
- ✓ Rules of discipline
- ✓ Retrenchment of workmen
- ✓ Working shifts other than in accordance with standing orders. It is the duty of the Industrial Tribunal to hold its proceedings expeditiously and to submit its report to the appropriate government within the specified time.

**National Tribunal:** The central government may, by notification in the official gazette, constitute one or more National Tribunals for the adjudication of Industrial Disputes in:

- ✓ Matters of National importance
- ✓ Matters which are of a nature such that industries in more than one state are likely to be interested in, or are affected by the outcome of the dispute.

It is the duty of the National Tribunal to hold its proceedings expeditiously and to submit its report to the central government within the stipulated time.