NEW INDUSTRIAL RELATIONS CODE AND ITS IMPACT ON INDUSTRY

Abstract

Four Labour Codes, consolidated from 29 industrial Legislations have come into force from November, 2026. The Industrial Disputes Act, 1947 has been in force since independence. The Parliament has rightly brought in a new Code to deal with the Industrial Disputes in a more effective way by introducing various provisions which are path breaking. Mandatorily issuing prior notice before going on strike in any industry, whether Public Utility Service or otherwise, a gender neutral definition of 'Worker', strengthening of Tribunals, reducing time limits for raising industrial disputes are some of the worthy reforms highlighted in the new legislation. This will certainly pave way for more industrial harmony and strengthen the dispute resolving mechanism.

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INTRODUCTION

The long awaited new Labour Codes have finally come into effect from 21st November, 2025 For recapitulation, the Parliament has consolidated 29 Industrial and labour legislations into just four (4) codes. These four codes deal with Industrial Relations, Wages, Safety, Health and Working Conditions and Social Security.

This article would critically examine as to the effect and impact of the new legislation in respect of Industrial Disputes and the scope of staff litigation in the light of the new Code.

"WORKMAN" TO "WORKER"

Section 2(s) of the repealed Industrial Disputes Act, 1947 defined a "Workman". The "Workman" is one who is non-managerial jobs. Under the New Industrial code, 2020, the definition almost remained the same but the expression **"workman"** has been changed to **"Worker",** it appears, to make it gender neutral. A 'Dismissed Worker' has also been now included in the definition of "Worker". There has been change in the definition to cover sales promotion employees and working journalists, but except for the nomenclature, there is no change in the definition of the term Worker. Therefore, the provisions of new Industrial Relations Code, 2020 would continue to be applicable to Clerical and other subordinate staff of the Bank.

Further, the New Code of 2020 defines "Employee" also in similar terms and both the expressions have been used in the Code interchangeably**.**

LABOUR COURT AND INDUSTRIAL TRIBUNAL

Section 7 and 7A of the repealed Industrial Disputes Act, 1947 provided for establishment of both Labour courts and Industrial Tribunals by the appropriate government.

The said labour Courts and Tribunals had jurisdiction only over matters which were specified in Second and Third Schedules thereto. However, the new Code has now done away with the constitution of the Labour Courts and envisages establishment of Industrial Tribunals only and accordingly the Industrial Tribunal is empowered deal with all disputes.

Under the erstwhile Industrial Disputes Act, 1947, only one Presiding Officer could be appointed. However, under Section 44(2) of the New Code of 2020, two members, one Judicial and one

Administrative member are required to be appointed. Only the bench consisting of a Judicial Member and an Administrative Member can entertain and decide the cases of interpretation of standing orders, dismissal of workmen, (c) Illegality of a strike or lockout; (d) Retrenchment of workmen, e) closure of establishment; and (e) Trade Union disputes.

Therefore, disputes related to dismissal of workers will be heard by the bench of two judges. The Judicial Member shall head the Tribunal when the bench of the Tribunal constituted by both the Judicial Member and Administrative Member.

All other remaining disputes can be entertained and decided by any of the members of the Tribunal. Therefore, the disposal of disputes, henceforth, is expected to be expeditious in view of addition of one more member to the Tribunal.

INDIVIDUAL DISPUTES

As already stated, Clerical and other subordinate staff are governed by the new Code as earlier. Industrial Disputes are of two kinds. One Individual Dispute and the other is espoused by the trade unions. Generally, under the Act, the disputes have to be raised or espoused by the Trade Unions. However, Section 2A of the erstwhile Industrial Disputes Act provided that if an individual workman was discharged, dismissed, or terminated by the employer, such dispute between that workman and his employer was deemed to be an industrial dispute and such employee could directly approach the Industrial Tribunal if he was aggrieved by his dismissal from the services.

Therefore, an individual worker could, without there being any espousal of his cause by any trade union, take up the matter in case of his dismissal from service. However, as per Section 2A(2) of the erstwhile Act, such employee could approach the Tribunal only after expiry of 45 days of initiating conciliation proceedings for conciliation.

However, under the new code, in addition to such a right to directly file an application before the Industrial Tribunal, the individual dispute can also be voluntarily referred to arbitration in terms of Section 42 of the new Code with the consent of both the Management and the worker concerned.

LIMITATION

In terms of Section 2A(3) of the repealed Act, a person who was dismissed or terminated can file such application for adjudication of his dispute within three (3) years from dismissal on of his or her services. However, under Section 4(11) of the new code, the limitation period has been reduced from three (3) years to two (2) years and as such an application can be filed only within two years only.

CONCILIATION

The disputes espoused by the Trade Unions are generally common to all the employees or majority of the employees. In such cases, there is no provision for directly approaching the CGIT for resolution of the said disputes other than a case of dismissal of an individual employee.

When Union moves an application for conciliation before the Officer appointed by the Central Government for conciliation, the Conciliation Officer initiates conciliation proceedings by issuing notice to the Bank concerned. As stated earlier, he has no power to adjudicate the disputes, but only the duty to attempt to bring an amicable settlement of the dispute espoused by the Union. If a settlement is reached, an award is drawn and the disputes stands resolved.

If the settlement could not be reached, the said Officer has to send a report as to the circumstances under which conciliation initiated by him had failed. The Central Government had the power to forward the dispute under Section 12 of the erstwhile Act for deciding the matter as per law o the Central Government Industrial Tribunal. Once the dispute is referred, the Central Government Industrial Tribunal was required to adjudicate the dispute which is binding on the parties to the dispute.

However, under the new Code, the power of the Central Government to forward the matter refer the disputes for a decision by the Industrial Tribunal has been taken away. The Parties to the disputes have been given liberty under Section 53(6) of the new code to approach the Industrial Tribunal on the issues on which the settlement could not be arrived at within 90 days.

TIME LIMIT WITHIN WHICH CONCILIATION PROCEEDINGS SHOULD BE HELD BY THE CONCILIATION OFFICER

Further, there was no provision as to the time limit within which conciliation proceedings could be initiated by the Conciliation Officer in the erstwhile Act of 1947 whereas a time limit of two years has been provided under Section 53 of the New Code of 2020.

It means, the Officer cannot hold Proceedings in respect of a dispute if such dispute arose more than two years back.

CHANGE OF CONDITIONS OF SERVICE DURING PENDENCY OF CONCILIATION PROCEEDINGS

Further, earlier, the employer was not entitled to alter the terms of employment of the workers connected with the Industrial Disputes when the said dispute is under conciliation before the Conciliation Officer nor the employer could dismiss or impose any punishment during conciliation proceedings except with written permission of the Conciliation Officer. As per Section 31 of the Act, if there is any violation of the same, the employer was liable to be imprisoned for a term up to 6 months or penalty up to Rs.1000/- or both imprisonment and penalty.

However, under the New Code of 2020, the service conditions of the workers cannot be altered even during the pendency of proceedings in the Industrial Tribunal too without its written permission. Earlier, the Act of the employer to change the conditions of service was treated as an offence but not anymore. Under Section 91 of the New Code of 2020, the aggrieved persons can make a complaint to the Officer and he is required to take such complaint into account in conciliation of the dispute.

PUBLIC UTILITY SERVICE

Under the previous Act of 1947, "Public Utility Service" has been defined under section 2(n)(iv) various essential services including railway, banking, postal etc., Furthermore, under the New Code of 2020, the provisions related to Strike has been provided in Section 62 as under:

"(1) No person employed in an industrial establishment shall go on strike, in breach of contract— (a) without giving to the employer notice of strike, as hereinafter provided, within sixty days before striking; or (b) within fourteen days of giving such notice; or (c) before the expiry of the date of strike specified in any such notice; or (d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings; or (e) during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and sixty days, after the conclusion of such proceedings; or (f) during the pendency of arbitration proceedings before an arbitrator and sixty days after the conclusion of such proceedings, where a notification has been issued under sub-section (5) of section 42; or (g) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award."

However, under the new Code of 2020, the concept of "Public Utility Service" has not been defined. The provisions related to notice of commencement of "Strikes", *under the old Act differed between Public Utility Services and Non-Public Utility Services. Earlier, workers in industries connected with Public Utility Services could not go on Strike without issuing notice of Six (6) weeks whereas there was no such restriction of issuing any prior notice in respect of industrial establishments dealing in non-public utility services. But, now, all workers of all industrial establishment cannot go on strike without 60 days of prior notice.*

Therefore, though Public Utility Service has not been defined, yet, similar provisions as applicable to a **Public Utility Service** have been prescribed under the said Section 62 and as such notice period for declaring strike by the workers/Trade Union now stands increased *in all Industrial Establishments including the industries connected with essential services. This is a great reform as production or service will not come to a grinding halt suddenly and there will be a greater scope for conciliation of differences between the workers and management.*

Further, now, under the new Code, the definition of "Strike" under Section 2(zk) has been expanded to include mass casual leave of workers of fifty per cent or more employed in an industry on any day.

SUSPENSION OF WORKERS

There was no provision of time limits for completion of enquiry proceedings against those workers who have been suspended for any misconduct and enquiry proceedings have been initiated against him under the old Act whereas it is now provided under Section 38 of the New Code of 2020 that the enquiry proceedings against a suspended worker have to be completed ordinarily within ninety days. This provision does not appear to be mandatory as the word "ordinarily" has been used and the consequences of not adhering to the said time limit have been provided in the Act. Further, the workers will get full pay after one year of suspension as per the Settlement with Unions if the enquiry proceedings have not been completed within one year. Furthermore, in the New Code of 2020, it is also provided that the Government may exempt any class of Industrial Undertaking from complying with these provisions.

REPRESENTATION THROUGH ADVOCATE IN CONCILIATION PROCEEDINGS

BEFORE THE CONCILIATION OFFICER & INDUSTRIAL TRIBUNAL

Section 36(3) of the earlier Act prohibited the parties (either employer or employee/Award Staff) to the Industrial Dispute from engaging an advocate or a legal practitioner to represent them in conciliation proceedings being held by the Conciliation Officer.

Interestingly, Section 36(4) provides that, in so far as proceedings before the Central Government Industrial Tribunal are concerned, a party to the dispute can engage a legal practitioner only with the consent of the other parties to the proceedings and with the permission of the CGIT. The legality of the said provision was disputed in the case of Paradip Port Trust Vs.TheirWorkemen[1] before Supreme Court on the ground that, an advocate had a right to appear before any Court or Tribunal and as such the said Section 36(4) to be invalid. However, Supreme Court held that the intention of the legislature is to discourage representation through legal practitioners considering unequal strength of the parties in adjudication proceedings before the Tribunal and hence the Supreme Court did not strike down the said provision. Supreme Court had clarified further that if a legal practitioner is employed by an employer, then the said person can represent the employer as a matter of right for which the consent of the other party or the Tribunal was not necessary. Similarly, a legal practitioner who is an officer bearer of the Trade Union can also represent the Trade Union or Workmen without there being any need of the consent by the Tribunal or other party to the dispute.

Supreme Court held that the provisions of Industrial Disputes Act, 1947 prevail over the provisions of the Advocates Act, 1961 in view of the fact that the Industrial Disputes Act, 1947 being a Special legislation whereas Advocates Act, 1961 being a general legislation.

However, recently, in the case of Thyssen Krupp Industries India Private Ltd. Vs.Suresh Maruti Chougule2, the said Section 36(4) was challenged before the Supreme Court as unconstitutional wherein it was argued by the Petitioner that the Advocates Act, 1961 to be the Special Act and the Industrial Disputes Act, 1947 to be the General Act whereupon Supreme Court also doubted the correctness of its earlier decision in Paradip Port Trust case which declared the Advocates Act, 1961 to be a General Act and hence referred the matter to a larger bench. On 4.10.2023, the larger bench of the Supreme Court had, once again affirmed the decision of the Supreme Court in Paradip Port Trust to be correct and the reasoning arrived at therein not required to be disturbed which is ruling the filed for the last more than half-century. In view thereof, if a Bank or workmen/Trade Union has to engage a legal practitioner to represent them before the Central Government Industrial Tribunal, they have to obtain the consent of each other. Otherwise, representation through legal practitioner would be disallowed by the CGIT.

As already stated, the question of consent does not arise in case of engaging a legal practitioner in Conciliation proceedings before the Conciliation Officer since Section 36(3) completely prohibited engaging an advocate in such proceedings.

The New Code of 2020 also did not envisage any change in the said provisions. The Parties to the proceedings have to, under Section 94 of the New Code of 2020, continue to obtain the consent of the other parties to the proceedings and also the Industrial Tribunal to engage a Legal Practitioners. It was expected that the said provisions would be changed given its chequered history. But, no changes have been effected to such provisions. Due to the lack of professional approach of the parties, the resolution of disputes pending before the Tribunal are getting delayed and as such it is required to be amended to do away with anachronistic approach.

ROLE OF COST ACCOUNTANTS

Strikes and Lock-outs not only impact the industrial harmony but also production, supply and distribution of various commodities including essential commodities. The Cost Accountants have a greater role to play in industrial establishments to assess the impact of strikes and lock-outs causing disruption on production on the costing of industrial products and services and opportunity costs.

CONCLUSION

The new Industrial Relations Code, 2020 passed by the Parliament in place of Industrial Disputes Act, 1947 has various path breaking provisions. Employee Relations in any organisation have to be harmonious for the smooth functioning of the organisation. The disputes raised by the employees of the Banks have to be handled with professional approach and hence Banks are required to provide adequate training to its personnel to be able to deal with the new Industrial Code of 2020 for effective implementation thereof.

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1. [(1977) 2 SCC 339]; 2. [(2021) 15 SCC 769]

1. [1999 (81) FLR]