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INDUSTRIAL DISPUTE V. INDIVIDUAL DISPUTE

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ABSTRACT

This paper investigates why an amendment related to the definition of the term “industrial dispute” was needed in the Industrial Disputes Act. The amendment expanded the scope of section 2(k) and added a few provisions that solved the difficulties and hardships of individual workmen who were terminated illegally. This article further discusses the situations prior to this amendment and after the amendment of The Industrial Disputes Act 1947, in which section 2A was added. Further this paper talks about the main aim and objectives of the Industrial disputes act along with the necessary conditions to be satisfied for an individual dispute to become an industrial dispute.



Keywords: *industrial dispute, terminated, individual dispute, The Industrial disputes Act 1947, Amendment.*

INTRODUCTION

Industrial Dispute and Individual Dispute has been a major point of argument before the amendment that brought in expansion to the definition of Industrial dispute and inserted Section 2A. As we all are aware that section of any act deals with the most important definitions of that act, similarly Section 2(k) of The Industrial Disputes Act, 1947 deals with the definition of the term Industrial dispute. The introduction of The Industrial Disputes Act, was to investigate and settle all the disputes that arise among:

- I) Employers and Workmen
- II) Employers and Employers
- III) Workmen and Workmen

This act's main objective was to maintain industrial peace and harmony by providing suitable mechanisms to solve such disputes. This act further aims at safeguarding the workers from unfair conducts of either the fellow workers or the management. This establishes social and economic justice between the laborers and the management, as this act is applicable to the industries in the whole of India irrespective of its size and capital. Minimising conflicts by providing proper solutions and preventing illegal strikes and lockouts are other objectives of the act.

This act Regulates the labour industry, by laying down statutes to prevent unfair labour practices. On top of all this act sticks to procedures like conciliation, arbitration, and adjudication alone for solving these disputes. But there are many demands that have been put forward, one of the major demands being the need for the statute to be dynamic according to the current industrial trends and requirement that keeps altering due to Globalization.

Considering one of the demands was the result of an amendment, that will be majorly discussed in this article.

Looking into a dispute people had conflicting views, a few argued few disputes were individual and not industrial in such cases they should never be the concern of the entity as a whole, whereas there were many people who were left without proper justice because of the definition in the statute though they deserved a judgement in favour of them. Therefore there was an expansion of the definition and Section 2A was added to the act that put an end to all these conflicting views.

This article will provide an analysis of why such amendment is needed and will further discuss two case laws:

- I) Central provinces Transport Services Ltd Vs. Raghunath Gopal Patwardhan
- II) Newspaper Ltd Vs. State of U.P and others

These cases will clearly give a vision about the position in India prior to this amendment. Further the relation between Section 2A and Section 2(k) will give us more understanding on why these amendments were made, and how these sections are related to each other.

DEFINITION OF INDUSTRIAL DISPUTE AND INDIVIDUAL DISPUTE:

The term industrial dispute is defined under section 2(k) of the Industrial Disputes Act 1947, According to the Bare Act the section reads as

“industrial dispute” means any dispute or difference 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;¹

Every workman has certain needs that have to be satisfied by the employer. By the term “needs” I mean the basic requirements, they have to be looked upon as these labourers offer their service. Disputes tend to arise when these needs are not satisfied.

These disputes or conflicts are a result of issues relating to employment, wages, working conditions, no bonus or no incentives etc., but it is important that such an issue must be connected with the employment or non-employment or employment conditions alone. There can be personal issues to any person, that should never be mixed with the industrial issue. The personal disputes can never be looked after by the employer, it is not his duty too.

Industrial disputes destroy progress and development of the industry both economically and socially. One of the major reasons is because this conflict affects the peace in the industry that may cause confusions amongst the workmen or even stoppage of work in extreme cases. It is clear that this creates only loss to both the management and the workers and no good. In an industry it is important that there is peace, then only the employees will have a positive attitude towards the industry. Having a positive attitude is important because then only we can see progress. If the employees Needs are not satisfied then they will not have an attitude to work for the industry’s progress rather they will develop aversion towards the management. They will not actively participate in the events of the industry.

Therefore, we know the term industrial dispute means some sort of difference or non agreement of opinions between the employers and the workmen, what must be looked into is whether such a dispute concerns an individual alone or collectively a group of employees. Based on this Industrial dispute is divided into two types of disputes

- I) Individual Dispute
- II) Collective Dispute

The International Labour Organization regarded the disputes that involved a single worker as an Individual Dispute and stated that an individual dispute can become a collective dispute when a number of individuals get involved in it.

¹ Industrial Disputes Act, (Act XIV of 1947) § 2(k)

But the actual problem arose when major unfair labour practices were taking place; they were dismissed by the court simply and blindly on the ground that the issue was not supported by a certain number of workers and therefore this cannot be considered as an industrial dispute. This created many dissatisfaction among the workers and justice was not rendered properly because the the Supreme Court interpreted it in a way that it almost excluded individual dispute from the sections scope as a whole.

When an Individual Dispute can be considered to be an Industrial Dispute: (Prior to the Amendment)

Before the addition of the section 2A, an individual dispute can never be considered as an Industrial Dispute. When an employee gets dismissed, and he chooses to raise a dispute against his dismissal the Supreme Court and Industrial Tribunals held that if his dispute is not supported by the Trade Union or few of his fellow workers his dispute cannot be considered as an Industrial dispute. So in order to consider an individual dispute an industrial dispute the below said conditions should be satisfied:

- I) There should be a group of workmen, usually the members of the registered Trade Union supporting the cause of the dispute that was raised by the workman.
- II) That particular Individual Dispute was taken up by the Trade Union and sponsored or their support was shown before the reference date.

The major requirement is that it needs to be supported by a considerable section of the workmen.

Central Provinces Transport Limited Nagpur v. Raghunath Gopal Patwardhan ²

Raghunath Gopal is the respondent in this case, he was accused of stealing some of the goods from the industry, therefore he was dismissed from the company. The respondent filed a suit against his dismissal on the grounds of misconduct. He contended that his case is an Industrial dispute and not an Individual Dispute. Whereas the Appellant contended that this is an Individual Dispute.

Thought the Industrial Court favoured the respondent, when appealed in the Supreme Court, the Apex court held that this is an Individual Dispute and in no ways this can be considered as an industrial Dispute.

² Central Provinces Transport Limited Nagpur v. Raghunath Gopal Patwardhan, 1957 AIR 104, 1956 SCR 956

Newspaper Ltd v. State of U.P³

In this case, it was contended by the respondent that he was dismissed from his services illegally and sued the appellants under the Industrial Disputes act. But the Supreme Court held that the co workers never raised an issue in his termination. They were fine with him being dismissed and didn't show their support to his cause. Hence it was held that this is an Individual dispute and not an Industrial Dispute.

ANALYSIS ON WHY SUCH AN AMENDMENT WAS NEEDED:

Since the act was introduced, there were long line of judicial decisions that omitted individual dispute from the scope of the definition. This led to various conflicting views, and there was no unity in the decisions of the court. But an individual dispute can become an industrial dispute when a group of individual workmen lend their support to the cause of the dispute raised.

This created difficulties to the workmen who were dismissed, retrenched discharged illegally, or in the situations when their services were terminated without sufficient cause. They will have no justice rendered when they do not have a group of men supporting their cause, and this group of men should belong to the registered trade union of that industry.

If the person fails to get the support of a considerable number of workmen to believe their cause then his dispute becomes an individual dispute and cannot be dealt as an industrial dispute.

For example:

If A is an Internal Auditor in Company X, he is a fair and straightforward person. He provides the audit of the company by stating the facts as it is. But he was not welcomed by his fellow workers as he brought into light any misconduct of the trade union and its members. When A was dismissed unlawfully, as he had hatred among his fellow workers he couldn't gather a considerable amount of workers belonging to that trade union to support his cause of dispute. Hence the dispute was considered as an individual dispute.

Here in this case it is evident that, because the dismissed person didn't have a number of people supporting him and his views he was denied relief under the Industrial Disputes Act. This created hardship among honest workmen who were dismissed, discharged, retrenched or terminated from their services unlawfully.

³ Newspaper Ltd v. State of U.P, 1957 AIR 532, 1957 SCR 754

Position after 1965 Amendment:**INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1965**

Section 2A was added to the Industrial Disputes Act, with a major aim of dispute resolution among people with conflicting views. According to the bare act,

Section 2A in The Industrial Disputes Act, 1947

2A. 1 Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.-
Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]⁴

CHAPTER II AUTHORITIES UNDER THIS ACT

It was with this amendment the term Individual Dispute was considered under the definition of Industrial Dispute. There was an expansion in the definition of industrial dispute.

According to section 2A, if an employer dismisses, discharges, retrenches or ends the contract of service between an employee and if such a termination causes any dispute between them due to difference in opinion regarding his employment or non employment or conditions of service. In such a case, if the employee cannot gain support of his workers or if there is no trade union existing or if the existing trade union is not sponsoring his cause of dispute. The employee can still get reliefs under the Industrial Disputes act claiming his problem to be an industrial dispute.

The employee can make a direct application to the Industrial Tribunal or the Labour Court for relief or adjudication for his dispute. But such an application can be made only after expiry of 3 months of application made to the conciliation officer, so that unnecessary delays can be avoided. Further before the expiry of three years of such dismissal, discharge, retrenchment or termination of service. Then if all these conditions are satisfied the court shall proceed to hear the case under The Industrial Disputes Act.

It should be noted that, not all individual disputes are considered as industrial disputes, it will be considered as one only if the dispute is because of the termination of contract of service between the employee and employer, dismissal, discharge or retrenchment. If such a dispute is associated

⁴ Industrial Disputes Act, (Act XIV of 1947) § 2A as amended

with any other matter like payments, wages, bonus, incentives then such a dispute will be taken as an individual dispute. Such kind of disputes will be considered industrial only when it satisfies the condition of collective dispute, that is a group of industrial workers support the cause.

Further, when a dispute is raised the question whether that employee is a member of the trade union is immaterial or not a point of concern. But those who lend their support to the affected workmen, should belong to the employment. They should have a common interest in the matter of dispute.

Section 2A compared with section 2(k):

Even though a group of workers or trade unions do not sponsor the issue it will be considered as an industrial dispute if it concerns the matters or issues mentioned in Section 2A of the Industrial Disputes Act.

One Change that the edition of this section brought was that before the amendment any dispute that was raised will be considered to be individual only, if a considerable number of workmen do not support the issue. Section 2(k) will be individual dispute only and will not become industrial if it does not satisfy the test of collective dispute.

Therefore section 2a Serves as an explanation for section 2(k).



CONCLUSION

The main aim or object of bringing in such an amendment is to provide relief to the workmen who were dismissed unlawfully or illegally. They need justice and it has to be rendered. But that rendering of justice shouldn't require a body of workers supporting it, that was an unnecessary requirement.

Involving a whole body of employees in a particular dispute and making it a general dispute or generalising the issue is not mandatory. It is to be noted that not every human being will have the same views towards an issue, and such difference in opinion should not be a barricade for one to get justice that they deserve.

Maintaining employer- worker relationships is mandatory for maintaining peace in an organization, only if there is harmony among them, the industry will be progressive. Having disputes will affect large groups of people if the issues have been generalised.

But after this amendment, all the disputes raised collectively or individually will be treated as industrial disputes if it lies under the conditions laid down under section 2A of the Industrial Act. However, other matters relating to payments, wages, bonus and incentives can be dealt under industrial dispute only if it's a collective dispute.

