

**MODULE
2****Evolution of Labour
Legislation in India****2.1. LABOUR LEGISLATIONS****2.1.1. Concept of Labour Legislation**

Labour laws or labour legislations are used to cover all the laws of the government which have been enacted to deal with employment and non-employment, wages, working conditions, industrial relations, social and economic security, and welfare of persons employed in industries. Labour law or employment law is the body of laws, administrative rulings, and precedents which address the relationship between and among employers, employees, and labour organisations, often dealing with issues of public law. Labour laws emerged when the employers tried to restrict the powers of workers' organisations and keep labour costs low. The workers began demanding better conditions and the right to organise so as to improve their standard of living. Employer's costs increased due to workers demand to win higher wages or better working conditions. This led to a chaotic situation which required the intervention of Government.

In order to put an end to the disputes between the ever-warring employer and employee, the Government enacted many labour laws. Labour laws harmonise many angles of the relationship between trade unions, employers and employees. In some countries (like Canada), labour laws related to unionised workplaces are different from those relating to particular individuals. In most countries however, no such distinction is made. In India the labour laws are so numerous, complex and ambiguous that they promote litigation rather than the resolution of problems relating to industrial relations. The labour movement has been instrumental in the enacting of laws protecting labour rights in the 19th and 20th centuries. Labour rights have been integral to the social and economic development since the industrial revolution.

2.1.2. History of Labour Legislation in India

The history of labour legislation in India is interwoven with the history of British colonialism. The labour legislations enacted by the British were primarily intended to protect the interests of the British employers. Considerations of British political economy were naturally paramount in shaping some of these early laws. Thus, the **Factories Act** came into existence. It is well-known that Indian textile goods offered stiff competition to British textiles in the export market and hence in order to make India labour costlier the Factories Act was first introduced in 1883 because of the pressure brought on the British parliament

by the textile magnates of Manchester and Lancashire. Thus, India received the first stipulation of eight hours of work, the abolition of child labour, and the restriction of women in night employment, and the introduction of overtime wages for work beyond eight hours. While the impact of this measure was clearly welfareist, the real motivation was undoubtedly protectionist.

Then the **Trade Disputes Act, 1929** came into existence. Provisions were made in Trade Disputes Act, 1929 for restraining the rights of strike and lock-out but no machinery was provided to take care of disputes. The original colonial legislation underwent substantial modifications in the post-colonial era because independent India called for a clear partnership between labour and capital. The content of the partnership was unanimously approved in a tripartite conference in December 1947 in which it was agreed that labour would be given a fair wage and fair working conditions and in return capital would receive the fullest cooperation of labour for uninterrupted production and higher productivity as part of the strategy for national economic development and that all concerned would observe a truce period of three years free from strikes and lock-outs. Ultimately the Industrial Disputes Act (the Act) brought into force on 01.04.1947 repealing the Trade Disputes Act, 1929 has since remained on statute book.

2.1.3. Nature of Labour Legislation

Nature of labour legislations is as follows:

- 1) **Product of Industrial Revolution:** The labour laws are the product of industrial revolution and they have come into being to take care of the aberrations created by it. They are different from common law because they come to alleviate special disorders created by special circumstances. Therefore, they are specific and not general in orientation, philosophy, concept, and even in practice.
- 2) **Regard Individual as a Worker:** Labour laws regard the individual as a worker, whereas social laws consider him primarily as a citizen. The principles governing labour laws are more influenced by the postulates of social justice than general justice. Workers are the weaker class of industrial society and have suffered long at the hands of employers. Therefore, the sets of laws go out of the way in protecting workers and securing justice for them. The influences of 'discriminative justice' and 'distributive justice' can be clearly seen over them. All the labour laws are heavily skewed towards labour and they are specifically designed like that.
- 3) **Deals with Problems of Labour:** Labour laws seek to deal with the problems arising out of the occupational status of individual. Consequently, such problems as hours of work, wages, working conditions, trade unionism, industrial relations, and so on, come to be the main subject matters of labour laws. Thus, regulation of the behaviour of the individual or his group is the function of labour laws as of any other laws. But under labour laws, the individual is affected in the capacity of a worker or an employer. Therefore, persons who are neither employers nor workers are least affected directly by labour laws.

- 4) **Relates to Different Roles:** Individuals have different roles to perform and different laws are designed for regulating the different roles. It is the role-relation that determines whether a particular law falls under the category of labour laws, social laws or general laws. All these laws try to meet the specific objectives of their respective target groups that is:
 - i) To provide subsistence,
 - ii) To aim at abundance,
 - iii) To encourage equality, and
 - iv) To maintain security.
- 5) **Regulates Conditions of Labour:** As labour laws are to regulate the conditions of labour in the industrial environment, it is required to be adjusted as per the changing requirements of industry. This has to be done more frequently than the general laws where changes are not that swift. Unless labour laws are subjected to frequent revision and not left to continue as they are, they become obsolete and irrelevant. The Indian Labour Laws are the best example. Most of them have become outdated as the required revisions have not been affected and gaps have been created between the expectation of industrial society and the institution of labour laws.

2.1.4. Objectives of Labour Legislation

Objectives of labour legislation are as follows:

- 1) To protect the workers from profit-seeking exploiters.
- 2) To ensure that the service conditions should be clearly spelt out by employer to the employee.
- 3) To improve and regulate the working condition of workers employed in different factories and establishment. To make statutory provision for the regular training of a certain number of apprentices in different trades.
- 4) To ensure that the employees are paid their wages on fixed dates and there should be no deduction made from the wages.
- 5) To promote cordial industrial relations and industrial peace between employers and employees.
- 6) To preserve the health, safety, and welfare of workers.
- 7) To protect the interests of women and children working in the factories.
- 8) To maintain the dignity of employees in the organisation.
- 9) To provide the protection of the weaker section.
- 10) To provide the rights of collective bargaining to the employee.
- 11) To provide the appropriate machinery to the employees for the purpose of controlling pollution in the working area.

2.1.5. Need of Labour Legislation

In a developing country like India, labour legislations are needed because of the following reasons:

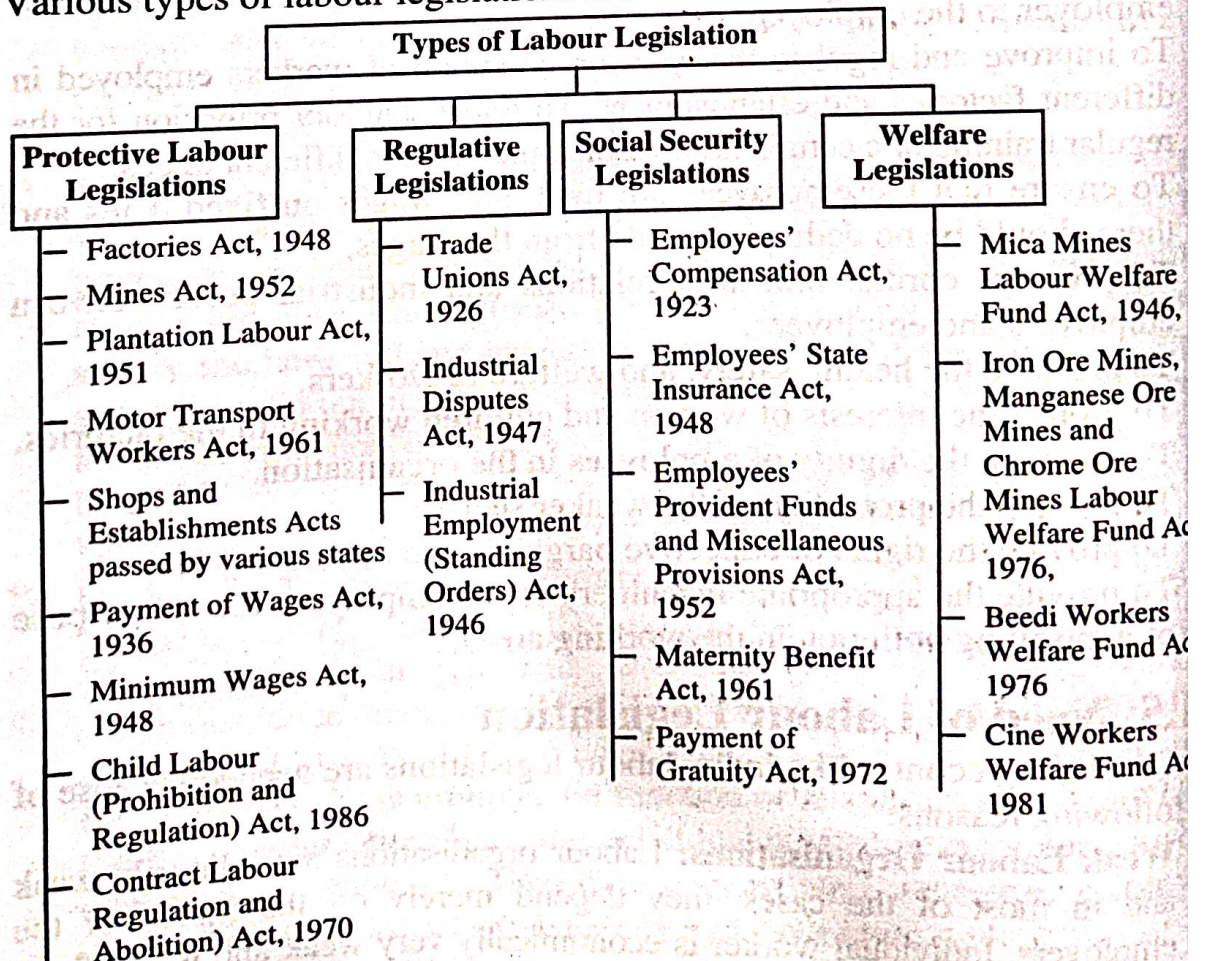
- 1) **Weak Labour Organisations:** Labour organisations are relatively weak and in most of the cases, they depend merely on the mercy of the employers. Individual worker is economically very weak and is unable to

bargain his terms with the employers. Now the prior payment of wages, lay-off, dismissal, retrenchments, etc., is all governed by legislation. The economic insecurity of the workers is removed to a great extent.

- 2) **Occupational Insecurity:** As per the Occupational Act, Employees State Insurance Act, certain benefits are mandatory to be given to workers by the employers, but in reality, the workers may not be given the amount of compensation in case of accidents, death, etc. Hence, in many organisations, workers may feel occupational insecurity.
- 3) **Hazardous Working Conditions:** Worker's health and safety is always in danger due to harmful working conditions in some factories. The Factories Act contains a number of provisions relating to health, safety, and welfare of workers. Special provisions have been made for the women.
- 4) **Law and Order:** Labour legislation is also necessary from the viewpoint of law and order situation and national security of the country. State plays a vital role in the continuing production. It helps in the economic development of the country. The idea of welfare state is embodied in the Directive Principles of the Constitution and for this reason, various labour laws have been enacted to protect the various sections of the society.
- 5) **Achieving Socio-Economic Progress:** Labour legislation is one of the most progressive and dynamic instruments for achieving socio-economic progress.

2.1.6. Types of Labour Legislation

Various types of labour legislations are as follows:



2.1.6.1. Protective Labour Legislations

Under this category are those legislations whose primary purpose is to protect minimum labour standards and improve working conditions. Laws laying down the minimum labour standards in the areas of hours of work, safety, employment of children and women, and so on, in factories, mines, plantations, transport, shops, and other establishments are included in this category. Legislations laying down the method and manner of wage payment as well as minimum wages also come under this category. Protective labour legislations include the following:

- 1) **Factories Act, 1948:** The Factories Act, 1948 is a piece of legislation covering all aspects regarding factories namely: approval, licensing and registration of factories, the inspecting authorities, health, safety, welfare, working conditions, working hours, employment of workers – adults and young children, annual leave and penalties, etc.
- 2) **Mines Act, 1952:** Mines Act, 1952 was legislated with the purpose of regulating the health and safety of labourers working in the mines. Mines Act, 1952 consists of 88 sections divided into 10 chapters. The said act came into existence solely for the safety and health and welfare of workers working in the mines. The act however, defines as to what is a mine. As per clause (j) of Section 2 of the Act, mine means the place where any excavation work is carried on for the searching and obtaining of minerals. Minerals as per clause (jj) of Section 2 means those substances which can be obtained from the earth by means of digging, dredging, drilling, mining or through other operations.
- 3) **Plantation Labour Act, 1951:** The Plantations Labour Act (PLA), 1951 applies to any land used or intended to be used for growing tea, coffee, rubber, cinchona or cardamom or any other plant which measures 5 hectares or more and in which 15 or more workers are employed on any day of the preceding 12 months.
- 4) **Motor Transport Workers Act, 1961:** Motor Transport Workers Act was passed to provide the welfare of motor transport workers and to regulate the conditions of their work. It applies to every motor transport undertaking employing five or more motor transport workers.
- 5) **Shops and Establishments Acts Passed by various States:** The Shops and Establishments Act, is an act enacted by every state in India to regulate conditions of work and to provide for statutory obligations of the employers and rights of the employees in un-organised sector of employment and other establishments in their jurisdiction. Shops and establishment is applicable in all states. The basic features are same with certain differences in cosmetic nature.
- 6) **Payment of Wages Act, 1936:** With the growth of industries in India, problems relating to payment of wages to persons employed in industry took an ugly turn. The industrial units were not making payment of wages to their workers at regular intervals and wages were not uniform.

The industrial workers were forced to raise their heads against the exploitation. Finally, The Payment of Wages Act came on statute book in 1936.

- 7) **Minimum Wages Act, 1948:** The foundational aim of the Minimum Wages Act is to prevent exploitation of labour in industries. This Act does not define the concept of minimum wages but empowers the Central Government as well as State Governments to fix minimum wages from time to time. Wherever this Act applies, the payment of minimum wages is mandatory.
- 8) **Child Labour (Prohibition and Regulation) Act, 1986:** This Act prohibits the employment of children (those who are under the age of 14) in specific occupations or processes. The list of prohibited occupations and processes can be added to by the Central Government. There are currently 31 occupations and 51 processes where child labour is prohibited. In other spheres, the employment of children is regulated rather than prohibited.
- 9) **Contract Labour (Regulation and Abolition) Act, 1970:** The Contract Labour (Regulation and Abolition) Act, 1970 has been enacted to regulate the employment of contract labour in certain establishments and for matters connected therewith. The Act provides for the constitution of Central and State Advisory Boards to advise the concerned Governments on matters arising out of the administration of the Act.

2.1.6.2. Regulative Legislations

Under this category fall those laws whose main objective is to regulate relations between employers and employees and to provide for methods and manner of settling industrial disputes. Such laws also regulate the relationship between the workers and their trade unions, the rights and obligations of the organisations of employers and workers, as well as the mutual relationships. Regulative legislations include:

- 1) **Trade Unions Act, 1926:** The Trade Unions Act, 1926, legalises the formation of trade unions by allowing employees the right to form and organise unions. It permits any seven persons to form their union and get it registered under the Act. Trade Unions Act, 1926 is one of the earliest acts relating to labour. Until the act was enacted, the workers did not know the importance of being an organised force. As there was no collective action, workers were made at the mercy of employers, and had to be contented with the wages. The necessity for this act was that the employers were exploiting the workers and workers did not have any power, as they were not united. To give workers their right and power the government came out with the act.
- 2) **Industrial Disputes Act, 1947:** Prior to 1947, industrial disputes were settled under the provisions of the Trade Disputes Act, 1929. However, the working of the 1929 Act revealed various shortcomings which included the imposition of certain restrictions on rights of strike and lock-out in public utility services and there were no provisions in existence

render the proceedings institutable under the Act for the settlement of industrial disputes. To overcome these shortcomings, a new Act called Industrial Disputes Act, 1947 came into existence.

- 3) **Industrial Employment (Standing Orders) Act, 1946:** The Industrial Employment (Standing Orders) Act, 1946 requires the employers to define with sufficient precision the conditions of employment under them and to make the said conditions known to the workmen by them. The Act also serves the purpose of having uniform Standing Orders.

2.1.6.3. Social Security Legislations

The third category of labour legislation covers those labour laws which intend to provide to the workmen social security benefits during certain contingencies of life. Though such legislations may cover other classes of citizens also, their primary and original goal has been to protect the workers. Social legislations include:

- 1) **Employees' Compensation Act, 1923:** Employees' Compensation Act, 1923 was previously known as Workmen's Compensation Act. It is one of the earliest labour welfare and social security legislation enacted in India. It recognises the fact that if an employee is a victim of accident or an occupational disease in course of his employment, he needs to be compensated.
- 2) **Employees' State Insurance Act, 1948:** The Act tries to attain the goal of socio-economic justice enshrined in the Directive Principles of State Policy under Part IV of Indian Constitution, in particular Articles 41, 42 and 43 which enjoin the state to make effective provision for securing the right to work, to education and public assistance in cases of unemployment, old age, sickness and disablement. The Act strives to materialise these objects though only to a limited extent.
- 3) **Employees' Provident Fund & Miscellaneous Provisions Act, 1952:** The Employees' Provident Fund and Miscellaneous Provisions Act of 1952 is a beneficial piece of legislation, enacted as a measure of social justice and should be understood liberally so as to confer benefit on the employees to the maximum extent.
- 4) **Maternity Benefit Act, 1961:** Maternity benefit act was undertaken in order to enable the women workers to carry on the social function of child bearing without undue strain on their health, and loss of wages. Therefore, Maternity Benefit Act, 1961, aims at providing payment of cash maternity benefit for a certain period before and after confinement, grant of leave, and certain other related facilities.
- 5) **Payment of Gratuity Act, 1972:** The Payment of Gratuity Act, 1972 ensures a uniform pattern of payment of gratuity to the employees throughout the country as a part of the social security laws. Prior to the enactment of the Payment of Gratuity Act, 1972 there was no legal compulsion for the employer to pay any gratuity to the employee.

2.1.6.4. Welfare Legislations

Legislations falling under this category aim at promoting the general welfare of the workers and improve their living conditions. Though, in a sense, all labour laws can be said to be promoting the welfare of the workers and improving their living conditions, and though many of the protective labour laws also contain chapters on labour welfare, the laws coming under this category have the specific aim of providing for improvements in living conditions of workers. In India, they also carry the term "welfare" in their titles. A study of these laws shows how all of them provide for the creation of a fund which is spent on improving the general welfare of workers including housing, medical, educational, and recreational facilities for the workers and also, to their family members covered under these laws and, therefore, it is apt that all these laws be categorised under the head "welfare legislation".

The concept of Labour Welfare Fund was, therefore, evolved in order to extend a measure of social assistance to workers in the unorganised sector. Towards this end, following separate legislations have been enacted by the Parliament to set-up some Welfare Funds to be administered by Ministry of Labour to provide housing, medical care, educational and recreational facilities to about 49 lac beedi workers, 73,650 mine workers and many other workers of unorganised sector:

- 1) **Mica Mines Labour Welfare Fund Act, 1946:** An Act to constitute a fund for the financing of activities to promote the welfare of labour employed in the mica mining industry.
- 2) **Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976:** An Act to provide for the levy and collection of a cess on iron ore, manganese ore and chrome ore for the financing of activities to promote the welfare of persons employed in the iron ore mines, manganese ore mines and chrome ore mines and matters connected therewith or incidental thereto.
- 3) **Beedi Workers Welfare Fund Act, 1976:** An Act to provide for the financing of measures to promote the welfare of persons engaged in beedi establishments.
- 4) **Cine Workers Welfare Fund Act, 1981:** An Act to provide for the financing of activities to promote the welfare of certain cine-workers.

2.1.7. Constitutional Provisions for the Protection of Labour Workforce in India

The relevance of the dignity of human labour and the need for protection and safeguarding the interest of labour as human beings has been enshrined in Chapter-III (Articles 16, 19, 23 & 24) and Chapter IV (Articles 39, 42, 43, 43A & 54) of the Constitution of India keeping in line with Fundamental Rights and Directive Principles of State Policy.

Labour is a concurrent subject in the Constitution of India implying that both the Union and the state governments are competent to legislate on labour matters and administer the same. The bulk of important legislative acts have been enacted by the Parliament.

The legislations can be categorized as follows:

- 1) Labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement.
- 2) Labour laws enacted by Central Government and enforced both by Central and State Governments.
- 3) Labour laws enacted by Central Government and enforced by the State Governments.
- 4) Labour laws enacted and enforced by the various State Governments which apply to respective States.

The Constitution of India provides detailed provisions for the rights of the citizens and also lays down the Directive Principles of State Policy which set an aim to which the activities of the state are to be guided. These Directive Principles are:

- 1) The state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice – social, economic and political, shall inform all institutions of the national life [Article 38(1)].
- 2) The state shall, in particular, direct its policy towards securing:
 - i) That the citizens, men and women, equally have the right to an adequate means of livelihood;
 - ii) That there is equal pay for equal work for both men and women;
 - iii) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; and
 - iv) That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment [Article 39].
- 3) The state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want [Article 41].
- 4) The state shall make provision for securing just and humane conditions of work and for maternity relief [Article 42].
- 5) The state shall endeavour to secure by suitable legislation or economic organisation or in any other way, to all workers – agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities [Article 43].

- 6) The state shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry [Article 43A].

The above principles have a bearing on both labour and social legislation, but there are some others which are related more to social issues. These are as follows:

- 1) The state shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years [Article 45].
- 2) The state shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the scheduled castes and scheduled tribes, and shall protect them from social injustice and all forms of exploitation [Article 46].
- 3) The state shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the state shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health [Article 47].

Besides the directive principles, constitution also distributes the powers to handle labour-related legislations between central and state legislatures.

Various legislations can be categorised as follows:

- 1) Labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement like:
 - i) The Employees' State Insurance Act, 1948,
 - ii) The Employees' Provident Fund and Miscellaneous Provisions Act, 1952,
 - iii) The Dock Workers (Safety, Health and Welfare) Act, 1986,
 - iv) The Mica Mines Labour Welfare Fund Act, 1946,
 - v) The Mines Act, 1952, etc.
- 2) Labour laws enacted by Central Government and enforced both by Central and State Governments like:
 - i) The Child Labour (Prohibition and Regulation) Act, 1986,
 - ii) The Contract Labour (Regulation and Abolition) Act, 1970,
 - iii) The Equal Remuneration Act, 1976,
 - iv) The Industrial Disputes Act, 1947,
 - v) The Industrial Employment (Standing Orders) Act, 1946, etc.
- 3) Labour laws enacted by Central Government and enforced by the State Governments like:
 - i) The Employers' Liability Act, 1938,
 - ii) The Factories Act, 1948,
 - iii) The Motor Transport Workers Act, 1961,
 - iv) The Trade Unions Act, 1926,
 - v) The Workmen's Compensation Act, 1923, etc.

- 4) Labour laws enacted and enforced by the various State Governments which apply to respective states.

2.1.8. Rights of Woman Workers

The Indian constitution covers almost every aspect of social, political and legal affairs. There are various rights given in the Indian Constitution for women. Fundamental Rights given in part III of the Indian Constitution mainly deals with overall development of an individual.

- 1) **Article 14:** It focuses on achieving gender equality for men and women in the areas of political, economic, and social life. In essence, it forbids class-based regulation while allowing fair classification.

Women are given equal legal protection from all offenses against women under this rule. It closes the gap between gender inequality and female injustice. It closes the gap between gender inequality and female injustice.

- 2) **Article 15:** It stipulates that the state shall not discriminate against any of its citizens on the basis of their race, religion, caste, sex, or place of birth. However, this article also permits governments to implement specific positive measures that benefit women.
- 3) **Article 16:** Every Indian citizen is guaranteed equal work possibilities, as well as marriage-related rights and permission from both sexes.
- 4) **Article 23:** In essence, it argues that everyone has the freedom to work and select their place of employment and that gender equality must be upheld in all spheres, including employment, work, and remuneration.

The maintenance or introduction of policies that provide for unique benefits in favour of the underrepresented sex is not prohibited by the equality principle also, outlaws forced labour and human trafficking.

- 5) **Article 39:** It guarantees and orders the state to implement policies that emphasize that men and women have an equal right to basic means of subsistence and that equal compensation for equal effort. Additionally, it combats a number of prejudices that hold women to be less capable and strong than males.
- 6) **Article 42:** It mandates that states establish provisions for providing fair and compassionate working conditions, maternity assistance, and it was for this reason that the Maternity Benefit Act, 1961, was passed.
- 7) **Article 243:** Each Panchayat and Municipalities should reserve one-third of the total number of seats to be filled by direct election for female candidates, this is an attempt to improve the position of women in village areas. These are some rights given to women under the Indian constitution. And there are a few laws that grant women at work basic rights in places like offices, fields, mines, and other industries and construction sites.

2.1.9. Importance of Labour Legislation

Labour legislations are important due to following reasons:

- 1) **Protecting Workers and Securing Justice:** Labour legislation regards the individual as a worker, whereas social legislation considers him primarily as a citizen. The principles governing labour legislations are more influenced by the postulates of social justice than general justice. Workers are the weaker class of industrial society and have suffered long at the hands of employers. Therefore, these sets of legislations go out of the way in protecting workers and securing justice to them. The influences of 'discriminative justice' and 'distributive justice' can be clearly seen over them. All the labour legislations are heavily skewed towards labour and they are specifically designed like that.
- 2) **Alleviates Special Disorders:** The labour legislations are the product of Industrial Revolution and they have come into being to take care of the aberrations created by it. They are different from common legislations, because they come to alleviate special disorders created by specific circumstances. Therefore, they are specific and not general in orientation, philosophy, concept, and even in practice.
- 3) **Deals with Problems of Labour:** Labour legislation seeks to deal with the problems arising out of the occupational status of individuals. Consequently such problems as hours of work, wages, working conditions, trade unionism, industrial relations, and so on, come to be the main subject-matters of labour legislation. Thus, regulation of the behaviour of the individual or his group is the function of labour legislation as of any other legislation. But under labour legislation, the individual is affected in the capacity of a worker or an employer. Therefore, persons who are neither employers nor workers are least affected directly by labour legislation.
- 4) **Meet Specific Objectives:** Individuals have different roles to perform and different laws are designed for regulating the different roles. It is the role-relation that determines whether a particular legislation falls under the category of labour legislation, social legislation or general legislation. All these legislations try to meet the specific objectives of their respective target groups that is:
 - i) To provide subsistence,
 - ii) To aim at abundance,
 - iii) To encourage equality, and
 - iv) To maintain security.
- 5) **Regulates Conditions of Labour:** As labour legislations are to regulate the conditions of labour in the industrial milieu, it is required to be adjusted as per the changing requirements of industry. This has to be done more frequently than the general legislation where changes are not that swift. Unless labour legislations are subjected to frequent revision and not left to continue as they are, they become obsolete and irrelevant. The Indian Labour Legislations are the best example. Most

of them have become outdated as the required revisions have not been affected and gaps have been created between the expectation of industrial society and the institution of labour legislation.

2.2. THE PRESENT LABOUR LAWS AND CODES

In line with recommendations of Second National Commission on Labour, the Ministry has taken steps for formulating of four Labour Codes on:

- 1) Wages;
- 2) Industrial Relations;
- 3) Social Security and Welfare; and
- 4) Occupational Safety, Health and Working Conditions by amalgamating, simplifying, and rationalising the relevant provisions of the existing Central Labour Laws.

These are further explained as:

- 1) **Code on Wages Bill:** The Draft Code on Wages Bill, 2017 has been introduced in the Lok Sabha on 10.08.2017 and is being examined by Parliamentary Standing Committee on Labour. The report of the Standing Committee is being awaited.
- 2) **Code on Industrial Relations:** To introduce the proposal of Labour Code on Industrial Relations Bill, 2018 in the Parliament, draft note for the Cabinet along with the Labour Code on Industrial Relations Bill, 2018 was circulated on 08.02.2018 for Inter-Ministerial consultation for seeking views/comments thereon. After examining the received comments of Ministries/Departments, the draft Code on Industrial Relations has been suitably modified. After vetting the Code by Legislative Department, Ministry of Law and Justice, the draft Cabinet Note alongwith the Code on Industrial Relations Bill, 2018 has been sent to Cabinet Secretariat on 05.11.2018 for consideration.
- 3) **Code on Social Security and Welfare:** A preliminary draft of the Code on Social Security and Welfare was placed on the website of the Ministry on 16.03.2017, inviting comments of the stakeholders/public. After considering the comments of various stakeholders, a revised draft namely draft Code on Social Security and Welfare, 2018 was uploaded on the website of this Ministry on 01.03.2018 seeking suggestions/comments from stakeholders/public. A Tripartite Consultation Meeting to discuss the Labour Code on Social Security and Welfare Bill, 2018 has been held on 27.11.2018 with Central Trade Union Organisations, the Employer' Associations and the State Governments/UTs under Chairmanship of Minister of State (Independent Charge) for Labour and Employment. The draft Note for the Cabinet along with the Labour Code on Social Security and Welfare Bill, 2018 has also been circulated recently for Inter-Ministerial consultation.

- 4) **Code on Occupational Safety Health and Working Condition**
 Preliminary draft of the Code on Occupational Safety Health and Working Conditions was prepared and placed on the website of the Ministry of Labour on 23.03.2018 for inviting comments/suggestions of the stakeholders including general public. A Tripartite Consultation Meeting was held on 22.11.2018 with Central Trade Union Organisations, the Employee Associations and the State Governments/UTs under Chairmanship of the Minister of State (Independent Charge), Labour and Employment to discuss the draft Occupational Safety, Health and Working Conditions Bill, 2018. The draft Cabinet Note alongwith the draft Occupational Safety, Health and Working Conditions Bill, 2018 has been circulated for Inter-Ministerial consultation recently.

2.2.1. Code on Wages, 2017

The Code on Wages, 2017 was introduced in Lok Sabha by the Minister of Labour, Mr. Bandaru Dattatreya on August 10, 2017. It seeks to consolidate laws relating to wages by replacing:

- 1) The Payment of Wages Act, 1936,
- 2) The Minimum Wages Act, 1949,
- 3) The Payment of Bonus Act, 1965, and
- 4) The Equal Remuneration Act, 1976.

The Code will apply to establishments where any industry, trade, business, manufacturing or occupation is carried out. This will also include government establishments. The central government will make wage-related decisions for its authorities, and establishments related to railways, mines, and oil fields, among others. State governments will make decisions for any other establishments. Wages include salary, allowance, or any other component expressed in monetary terms. This will not include bonus payable to employees or any travelling allowance among others.

2.2.2. Code on Industrial Relations

The Union Ministry of Labour and Employment has prepared a draft Labour Code on Industrial Relations Bill, 2015. The stated objective of the government is to simplify the country's archaic labour laws relating to the registration of trade unions, conditions of employment, investigation and settlement of disputes and related matters. It seeks to integrate three labour laws – Industrial Disputes Act, 1947; Trade Unions Act, 1926; and Industrial Employment (Standing Orders) Act, 1946 into a single code. While the primary aim of the Draft Labour Code on Industrial Relations Bill, 2015 was to simplify labour laws, it has come in for sharp criticism from labour groups and trade unions. The Code will enable companies to fire their staff without any official sanction if the staff strength is up to 300. As of now, companies having more than 100 employees require official sanction for firing their staff. Also, registering a trade union will require at least 10 per cent of the employees as members, regardless of the size of the establishment.

2.2.3. Code on Social Security & Welfare

The objective is to simplify, rationalise, consolidate, and amend the laws relating to social security of workforce so as to make them less complex for easier comprehension, implementation and enforcement. It shall extend to the whole of India. It shall come into force on such date as the central government may, by notification in the official Gazette, appoint provided that different dates may be appointed for different classes of establishments, different provisions of this Code and for different States or different parts thereof. The Code shall apply to all entities provided that the Code or such provisions of the Code shall not apply to such class of entities as may be specified in the Part-I of First Schedule, in respect of such workers of the entity and subject to restrictions and conditions specified therein.

The Code shall apply to workers that are employed by any entity; worker who may also be the owner or the proprietor of an entity or a self-employed unit; international workers and Indian citizen, working outside the territory of India, who opts to become a member of social security schemes under this Code provided that the Code or such provisions of the Code shall not apply to such class of workers as may be specified in the Part-II of the First Schedule, subject to restrictions and conditions mentioned therein.

2.2.4. Code on Occupational Safety Health & Working Conditions

Preliminary draft of the Code on Occupational Safety Health and Working Conditions was prepared and placed on the website of the Ministry for inviting comments/suggestions of the stakeholders including general public.

The code aims to regulate the employment of workers including those engaged by contractors and their working conditions across sectors. It envisages setting up a national occupational safety and health advisory board to advise the government on rules pertaining to workers' safety. The board is expected to prescribe health and safety standards for workers in factories, mines docks, buildings and construction sites and other establishments. Additionally, the code provides for a national licence with three-year validity for staffing companies.

Now, the Ministry has prepared a preliminary draft on Code on Occupational Safety, Health and Working Conditions, 2018, by amalgamating 13 labour laws relating to safety and health standards, health and working conditions, welfare provisions for the employees and leave and hours of work. The following Acts have been merged:

- 1) The Factories Act, 1948 (Act no. 63 of 1948).
- 2) The Mines Act, 1952 (Act no. 35 of 1952).
- 3) The Dock Workers (Safety, Health and Welfare) Act, 1986 (Act no. 54 of 1986).

- 4) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Act No. 27 of 1996).
- 5) The Plantations Labour Act, 1951 (Act No. 69 of 1951).
- 6) The Contract Labour (Regulation and Abolition) Act, 1970.
- 7) The Inter-State Migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979.
- 8) The Working Journalist and other News Paper Employees (Conditions of Service and Misc. Provision) Act, 1955.
- 9) The Working Journalist (Fixation of rates of wages) Act, 1958.
- 10) The Motor Transport Workers Act, 1961.
- 11) Sales Promotion Employees (Condition of Service) Act, 1976.
- 12) The Beedi and Cigar Workers (Conditions of Employment) Act, 1966.
- 13) The Cine Workers and Cinema Theatre Workers Act, 1981.

2.3. GRIEVANCE

2.3.1. Meaning and Definition of Grievance

Grievance can be referred to as a feeling of discontentment and dissatisfaction that an employee has regarding his employment. When an employee has a complaint and is neglected, then a feeling of injustice and discrimination arises in an employee. When this feeling grows up it takes the form of a grievance. Thus, it is essential to deal with dissatisfaction. For doing this, organisation should take into consideration grievance management. **Grievance management** is the procedure through which the manager deals with the grievances of his employees during his service. Grievance management makes it possible to identify prospective problems of the employees. Without grievance management, it is impossible for the management to deal with employee problems and respond to them. Thus, grievance management plays an important role in making organisational working relationships effective.

According to Dale Yoder, "Grievance is a written complaint filed by an employee and claiming unfair treatment".

According to Keith Davis, "Grievance is any real or imagined feeling of personal injustice which an employee has, concerning his employment relationship".

According to Prof. Jucius, "Grievance is any discontent or dissatisfaction, whether expressed or not, whether valid or not, arising out of anything connected with the company that an employee thinks, believes, or even feels is unfair, unjust or inequitable".

According to International Labour Organisation, "Grievance is a complaint of one or more workers in respect of wages, allowances, conditions of work and interpretation of service stipulations, covering such areas as overtime leave, transfer, promotion, seniority, job assignment and termination of service".

2.3.2. Nature of Grievance

Nature of grievances is as follows:

- 1) Discontent or dissatisfaction with any aspect of the organisation is a grievance.
- 2) There can be diverse reasons for the causes of grievance.
- 3) It can be written or oral and expressed or unexpressed.
- 4) A grievance may be legal or illegal, justifiable or illogical, acceptable or unacceptable.
- 5) Grievance leads to frustration, dissatisfaction, unhappiness, negligence towards work which may lead to poor morale and ultimately results in inefficiency and low productivity.
- 6) The grievance can be regarding an individual or group of employees.

2.3.3. Need of Grievance Redressal Procedure

Grievance redressal procedure is needed because:

- 1) It brings out grievance issues in front of the management so that remedial actions can be taken.
- 2) Timely intervention by the management prevents minor grievances from assuming big proportions and becoming dispute.
- 3) It provides a formalised outlet for the employee's psychological release to reduce their discontentment. The grievance system may or may not be used by the worker for his own emotional release in a particular system. However, it builds within him a sense of emotional security as the system is there for his support.
- 4) It facilitates in the establishment and maintenance of conducive working environment.
- 5) It helps the management to identify the attitudes and feelings of employee regarding the organisational policies, rules and practices so that essential upgradations in policies and rules can be done.
- 6) It closely monitors arbitrary management actions. As the manager knows that his actions can be scrutinised and challenged, he will be more cautious while coming to a decision.

2.3.4. Forms of Grievances

Forms of grievances are as follows:

- 1) **Factual:** The relationship of employer and employee is based on the organisation's employment contract. It is the employment contract which specifies the norms that define the limits of employee's expectation from the organisation to meet his requirements and expectations. When these expectations are not met by the organisation, the employee gets disappointed with his job. This type of disappointment is known as **factual grievance**. These grievances are due to faulty implementation of organisational policies. For example, salary hike is promised to employee after one year but not given.

- 2) **Imaginary:** Imaginary grievance arises when an employee dissatisfied due to his wrong perception, negative attitude and incorrect information. This wrong perception can have long-term impact on the organisation. It may develop a negative image of the organisation in front of his employees which may decrease their work efficiency. Therefore, this type of grievance should be dealt immediately.
- 3) **Disguised:** When an employee is not aware about the reasons for his dissatisfaction, then he has a disguised grievance. Generally, employee's psychological needs like need for appreciation, friendliness, authority, success, etc., are not met. For example, an employee who is dissatisfied with the work conditions of the company may desire some appreciation and praise from his co-workers. Hence, disguised grievance must also be given due consideration because if they are neglected, they can have harmful consequences.

2.3.5. Causes of Grievances

Main causes of grievances are as follows:

- 1) **Management Practices:** Grievances can arise from the following management practices:
 - i) **Management Style:** The autocratic style of management at one end and participative style on the other may cause grievance among the workforce in an organisation. For example, a workforce composed of extremely qualified people may not appreciate an autocratic style as in the present scenario a participative style is more appreciated. Thus, the style and practice would need to be adapted according to the current situation.
 - ii) **Social Distance:** The relationship between the workers and manager is characterised by social distance. This is because there may be differences in class and cultural orientations between management and workers. Managers view the workers as someone who is on a much lower social scale. In such circumstances, a grievance system would not work in an effective way as workers are hesitant with their grievances.
 - iii) **Implementation of Personnel Policies:** If the personnel policies do not serve the purpose for which they are formed, it may be a reason for grievance. There may be several contradictions in personnel policies which may lead to grievances, e.g., matters related to employment, remuneration, seniority, overtime, assignment of personnel to shifts, etc.
 - iv) **Communication Gap:** Lack of communication between employees and management can also cause grievance. Matters that concern the employees or group of employees should be informed to them. For example, information about proposed actions of management which it intends to take in future, location of new plant, lay-offs and mergers, the key decisions about

introduction of new schemes or new ways of working. If the employees are aware about the proposed actions then they will understand the consequences of the management actions which in turn will lead to less number of grievances.

- v) **Supervisory Practices:** Faulty supervisory style, such as, lack of consistent application of personnel policies, biasness in applying rules and decisions, etc., can create pressure on employees and could lead to grievances. **For example**, setting-up of challenging individual or group task without consulting the staff members can build pressure and cause grievance.

2) **Grievances Resulting from Personal Maladjustment:** Various personal maladjustment factors can lead to grievances which are as follows:

- i) **Negative Attitude of Employee:** It has been observed that employees having a negative attitude complain frequently and are careless, casual and inconsiderate of others. They provoke others to join them and give rise to unnecessary grievances.

- ii) **Health Problems:** Employees suffering from health issues like depression, mental tension may find an outlet by airing their grievances. When a person is already tensed due to ill health, minor concerns take the form of grievances.

- iii) **Impractical Expectations:** In any organisation, employees having high self-esteem often develop over-confidence and are over-ambitious. These traits are main causes of grievances.

3) **Working Conditions:** Employees may be distressed due to following reasons:

- i) Rigid production standards,
- ii) Mismatch of the skills of the worker and the requirement of the job,
- iii) Lack of adequate tools, machines and equipment to successfully complete a given task,
- iv) Changes in work-hours or techniques,
- v) Poor rapport with the supervisors,
- vi) Bad conditions of workplace like unavailability of drinking water, damaged workstations, inadequate sanitation facilities, etc., and
- vii) Poor disciplinary system (too much or too less discipline, both are equally harmful).

2.3.6. Identifying Grievances

Grievances can be identified in many ways which are as follows:

- 1) **Observation:** By observing the behaviour of people working under him, a manager/supervisor can easily identify the signs which may lead to grievances. If an employee is not adjusting with the people around him, wasting materials due to ignorant or reckless behaviour, shows indifference to commands, frequently reports late for work or is absent then all these clearly indicate a potential grievance.

- 2) **Gripe Boxes:** Under this system, employees can drop their written complaints pertaining to any aspect of work in the boxes kept by the organisation in important places of the factory. The purpose of this system is to provide an outlet to the employees to secretly express their complaints and apprehensions without the fear of being victimised, and the complainant need not reveal his identity.
- 3) **Open-Door Policy:** This is a style of gathering complaints from the employees. In this system, the workers are encouraged to call on the concerned managers at any time to share their feelings openly regarding any kind of grievances related to work. The manager can use a variety of methods to verify the facts of the complaint.
- 4) **Exit Interview:** When an employee quits his current job for any reason, an exit interview must be conducted to obtain information about job related matters. Those employees who are quitting their jobs can speak freely and frankly about their experience and observations in the job. The manager must motivate the employees to give right information so as to provide invaluable insights into the problems and anxieties of the employees. It is a good opportunity for the management to know about hidden reasons for dissatisfaction among the employees. Immediate actions help to overcome the mistakes promptly. If the employee is not able to answer courageously then a questionnaire can be provided which he can fill and post after all his dues are cleared from the present organisation.
- 5) **Opinion Surveys:** Employee surveys can also be conducted regularly in order to extract the employees' opinion about the organisation and its policies.

2.3.7. Effects of Grievances

Various effects of grievances are as follows:

- 1) **Production:** The adverse effects on production are:
 - i) Decline in quality of production,
 - ii) Decrease in quality of employees' productivity,
 - iii) Increase in the wastage of material, spoilage/leakage of machinery, and
 - iv) Increasing production cost.
- 2) **Employees:** Grievances of employees, if unnoticed can:
 - i) Increase absenteeism and turnover rate,
 - ii) Lower the commitment level, honesty and discipline,
 - iii) Increase the chances of accidents, and
 - iv) Low employee morale.
- 3) **Managers:** Managerial grievances can result in the following:
 - i) Negatively affects the superior-subordinate relations,
 - ii) Increase in indiscipline cases,
 - iii) Creates an atmosphere of disturbance or turmoil, and
 - iv) Increases the degree of supervision, control and follow-up.

2.3.8. Legislative Aspects of the Grievance Redressal Procedure

Grievance handling procedure or grievance redressal procedure is the formal system for dealing with employee grievances. It involves several steps through which an affected employee can take his grievance to successively higher levels of management for redressal. It is a valuable tool in the hands of the management to keep a check or relevant analytical information about the condition of the organisation's health.

A grievance handling procedure is essential in a large organisation because the number of employees and the hierarchical levels are more. As a result, the manager is unable to keep an eye on each individual or be involved in every working areas of the organisation. In a small organisation, communication, knowledge and contact is possible to a larger extent, therefore, the need of a formal grievance procedure is reduced.

2.3.8.1. Steps in Grievance Handling Procedure

Steps involved in grievance handling procedure are shown in figure 2.1:

Step 1) Identification of Grievances:

Those grievances of employees which are not being disclosed must be recognised by the management.

Step 2) Define Correctly: After identifying the grievances, management should correctly define them.

Step 3) Data Collection: Every data related to grievance must be gathered from all sources and after that it should be classified as facts, data, opinions, etc.

Step 4) Analyse and Solve: After data collection, analysis of information must be done in order to develop alternative solutions and select the best solution.

Step 5) Prompt Redressal: After the analysis of grievances, it must be redressed immediately by implementing the solution in a speedy manner.

Step 6) Implementation and Follow-Up: There should be follow-up after the implementation of the solution to check the effectiveness of the solutions.

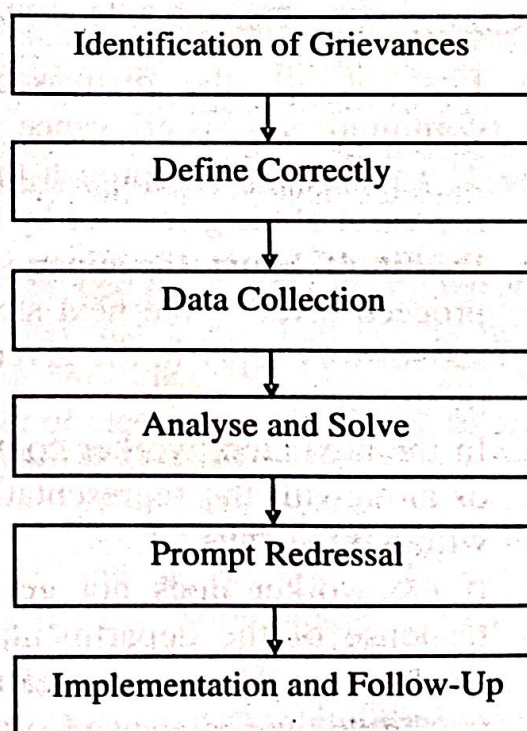


Figure 2.1: Steps in Grievance Handling Procedure

2.3.8.2. Model of Grievance Redressal Procedure

National Commission on Labour has suggested a model grievance redressal procedure which includes following steps:

| Procedure | Time frame |
|--|--|
| Appeal against within a week ↑ Manager ↑ Grievance Committee ↑ HOD ↑ Supervisor ↑ Foreman ↑ Worker | 3 Days 7 Days unanimous 3 Days 48 Hours |

Figure 2.2: Model Grievance Handling Procedure

- 1) First of all, the distressed worker approaches the foreman and communicates his grievance verbally.
- 2) The worker will approach the supervisor, if he is not satisfied by the redressal of his grievance by the foreman.
- 3) Within 48 hours, the supervisor must provide a reply. The worker will proceed towards the next step if the supervisor is unable to provide a satisfactory reply in the given timeframe or if the reply is not accepted by the worker.
- 4) In the next step, worker contacts the Head of Department either alone or along with the representative of his department. He has to respond within three days.
- 5) If the worker does not get the answer or is not satisfied with the response of the departmental head, he can appeal to the Grievance Committee. The representatives of the employer and the employee constitute the Grievance Committee.
- 6) The committee makes its recommendations and forwards it to the manager within seven days after intimation of grievances.
- 7) The management shall implement the agreed decisions, if any, decided by the committee.
- 8) When there is any unanimous decision, the members of the committee place their views before the manager of the worker for his decision. The worker is informed about the decision within three days by the manager.
- 9) When the worker is not satisfied, he can make an appeal against the manager's decision which has to be again decided within a week.

The worker may be accompanied by the union official for discussion with the manager. If no decision is taken, then within a week of the receipt of the management's decision, both the union and management can take the grievance to voluntary arbitration.

2.3.8.3. **Grievance Machinery under Industrial Disputes Act, 1947**

Grievance machinery is the procedure of conveying the grievances to the higher authorities or concerned people from the time of their occurrence till the time of their settlement. Grievances turn complicated for the settlement once they have reached to the highest stage of grievance process. Therefore, it is advisable to settle the grievances in its early stage.

According to **Section 9-C of Industrial Disputes Act, 1947**, grievance management machinery is as follows:

- 1) Every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.
- 2) The Grievance Redressal Committee shall consist of equal number of members from the employer and the workmen.
- 3) The Chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workmen alternatively on rotation basis every year.
- 4) The total number of members of the Grievance Redressal Committee shall not exceed more than six. It is provided that there shall be, as far as practicable, one woman member if the Grievance Redressal Committee has two members and in case the number of members is more than two, the number of women members may be increased proportionately.
- 5) Notwithstanding anything contained in this section, the setting-up of Grievance Redressal Committee shall not affect the right of the workman to raise Industrial dispute on the same matter under the provisions of this Act.
- 6) The Grievance Redressal Committee may complete its proceedings within thirty days on receipt of a written application by or on behalf of the aggrieved party.
- 7) The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance Redressal Committee and the employer shall, within one month from the date of receipt of such appeal, dispose-off the same and send a copy of his decision to the workman concerned.
- 8) Nothing contained in this section shall apply to the workmen for whom there is an established Grievance Redressal Mechanism in the establishment concerned.

2.3.8.4. Grievance Resolution Methods

Methods used to resolve the grievances are as follows:

- 1) **Collective Bargaining:** In this method of grievance resolution, issues of various employees are resolved together.
- 2) **Mediation:** It is a voluntary method of grievance handling which comes into play when the grievance stays as it is even after the formal procedure is undertaken to resolve it. But, it is used before opting for unbiased third party redressal, i.e., arbitration.
- 3) **Conciliation:** According to The International Labour Organisation "conciliation is the practice by which the services of a neutral third party are used in a dispute as a means of helping the disputing parties reduce the extent of their differences and to arrive at an amicable settlement or agreed solution. It is a process of rational and orderly discussion of differences between the parties to a dispute under the guidance of a conciliator". In other words, it is a process in which a third party, after analysing the conflict, proposes a solution to the conflict with an intent that both the parties involved in conflict give their consent to it. Main motive behind this method is to resolve the disputes as soon as possible in order to avoid lock-outs, strikes, etc. to reduce its duration, if it happened.
- 4) **Arbitration:** This process of grievance handling takes place with the help of an unbiased third party, which studies the issue and provides the parties with an impartial solution. Arbitration should not be confused with the formal court system. And, hence its decisions are not compulsory all the time.
- 5) **Adjudication:** In this method also the grievances are resolved by the interference of a third party but here the third party is employed by the government and its decisions are also binding. Sometimes, the consent of parties involved is asked before referring the grievances to adjudication and sometimes, government can refer it on its own.

2.3.8.5. Essentials of Grievance Handling Procedure

Essentials related to grievance handling are as follows:

- 1) **Legal Sanctity:** The grievance procedure must comply with the existing legislations. It must be formed as an addition to the statutory provisions. The grievance machinery as given under laws should be followed wherever possible. The collective bargaining agreement or standing order of the organisation may contain the details of the procedure.
- 2) **Acceptability:** Grievance procedure should be developed after discussion with management, workers and the union so that they find it acceptable by everyone. Following guidelines must be considered for making it acceptable:
 - i) Principles of fairness and justice towards workers must be followed,

- ii) Managers must command reasonable power, and
 - iii) Significant participation of the trade union.
- 3) **Promptness:** Prompt handling of grievances should be the objective of grievance procedure. This can be done in the following manner:
- i) Grievances should be addressed at the initial level,
 - ii) Multiple appeals should be avoided,
 - iii) Strict enforcement of the prescribed time limits at each level, and
 - iv) Grievances should be forwarded to the concerned authorities.
- 4) **Simplicity:** The grievance procedure must have fewer steps. Employees must be informed about the concerned officers and the entire procedure of grievance handling.
- 5) **Training:** To ensure effective working of the grievance procedure, the supervisors and trade union representatives must be provided training for handling grievances.
- 6) **Follow-Up:** The procedure of grievance must be regularly reviewed. Important modifications must be done from time-to-time in order to make it more effective.