

[(3-A) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the person making the reference represents the majority of each party, the appropriate Government may, within the time referred to in sub-section (3), issue a notification in such manner as may be prescribed; and when any such notification is issued, the employers and workmen who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators.]

(4) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

[(4-A) Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (3-A), the appropriate Government may, by order, prohibit the continuance of any strike or lockout in connection with such dispute which may be in existence on the date of the reference.]

(5) Nothing in the Arbitration Act, X of 1940, shall apply to arbitrations under this section.

## CHAPTER IV

### PROCEDURE, POWERS AND DUTIES OF AUTHORITIES

**11. Procedure and powers of of Conciliation Officers, Boards, Courts and Tribunals.**—(1) Subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit.

(2) A Conciliation Officer or a member of a Board or Court or the presiding officer of a Labour Court, Tribunal or National Tribunal may for the purpose of an inquiry into an existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by the establishment to which the dispute relates.

(3) Every Board, Court, Tribunal and National Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following

matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses;
- (d) in respect of such other matters as may be prescribed;

and every inquiry or investigation by a Board, Court, Labour Court, Tribunal and National Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (XLV of 1860).

(4) A Conciliation Officer may call for and inspect any document which he has ground for considering to be relevant to the industrial dispute or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Act, and for the aforesaid purposes, the Conciliation Officer shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure (V of 1908), in respect of compelling the production of documents.

(5) A Court, Labour Court, Tribunal or National Tribunal may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceeding before it.

(6) All Conciliation Officers, members of a Board or Court and the presiding officers of a Labour Court, Tribunal or National Tribunal, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(7) Subject to any rules made under this Act, the costs of, and incidental to any proceeding before a Labour Court, Tribunal or National Tribunal shall be in the discretion of that Labour Court, Tribunal or National Tribunal and the Labour Court, Tribunal or National Tribunal, as the case may be, shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and

such costs may, on application made to the appropriate Government by the person entitled, be recovered by the Government in the same manner as an arrear of land revenue.

(8) Every Labour Court, Tribunal or National Tribunal shall be deemed to be a Civil Court for the purpose of sections 480, <sup>1</sup>[482 and 484] of the Code of criminal Procedure, 1898 (V of 1898).

**12. Duties of Conciliation Officers.**— (1) Where any industrial dispute exists or is apprehended, the Conciliation Officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall hold conciliation proceedings in the prescribed manner.

(2) The Conciliation Officer shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof, and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Conciliation Officer shall send a report thereof to the appropriate Government <sup>2</sup>[or an officer authorised in his behalf by the appropriate Government] together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the Conciliation Officer shall as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances, relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board, Labour Court, Tribunal or National Tribunal, it may make such reference. Where the appropriate Government does not make such a

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1. Subs. by Act 36 of 1964.

2. Ins. by Act 35 of 1965.

reference it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:

Provided that <sup>1</sup>[subject to the approval of the Conciliation Officer] the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.

**13. Duties of Boards.**— (1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof, and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, the appropriate Government does not make a reference to a Labour Court, Tribunal or National Tribunal under section 10, it shall record and communicate to the parties concerned its reasons therefor.

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1. Ins. by Act 36 of 1964.

(5) The Board shall submit its report under this section within two months of the date on which the dispute was referred to it or within such shorter period as may be fixed by the appropriate Government:

Provided that the appropriate Government may, from time to time, extend the time for the submission of the report by such further periods not exceeding two months in the aggregate:

Provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

**14. Duties of Courts.**—A Court shall inquire into the matters referred to it and report thereon to the appropriate Government ordinarily within a period of six months from the commencement of its inquiry.

**15. Duties of Labour Courts, Tribunals and National Tribunals.**—Where an industrial dispute has been referred to a Labour Court, Tribunal or National Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as it is practicable on the conclusion thereof, submit its award to the appropriate Government.

**16. Form of report or award.**— (1) The report of a Board or Court shall be in writing and shall be signed by all the members of the Board or Court, as the case may be:

Provided that nothing in this section shall be deemed to prevent any member of the Board or Court from recording any minute of dissent from a report or from any recommendations made therein.

(2) The award of a Labour Court or Tribunal or National Tribunal shall be signed by its presiding officer.

**17. Publication of reports and awards.**—(1) Every report of a Board or Court together with any minute of dissent recorded therewith, every arbitration award and every award of a Labour Court, Tribunal or National Tribunal shall, within a period of thirty days from the date of its receipt by the appropriate Government, be published in such manner as the appropriate Government thinks fit.

(2) Subject to the provisions of section 17-A, the award published under sub-section (1) shall be final and shall not be called in question by any Court in any manner whatsoever.

17-A. Commencement of the award— (1) An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:

Provided that—

- (a) if the appropriate Government is of opinion, in any case where the award has been given by a Labour Court or Tribunal in relation to an industrial dispute to which it is a party; or
- (b) if the Central Government is of opinion, in any case where the award has been given by a National Tribunal;

that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification in the *Official Gazette*, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(2) Where any declaration has been made in relation to an award under the proviso to sub-section (1), the appropriate Government or the Central Government may, within ninety days from the date of publication of the award under section 17, make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

(3) Where any award as rejected or modified by an order made under sub-section (2) is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (2) is made in pursuance of a declaration under the proviso to sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (2).

(4) Subject to the provisions of sub-section (1) and sub-section (3)

regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (1) or sub-section (3), as the case may be.

**18. Persons on whom settlements and awards are binding** —<sup>1</sup>[(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

(2) <sup>2</sup>[Subject to the provisions of sub-section (3), an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]

(3) A settlement arrived at in the course of conciliation proceedings under this Act <sup>3</sup>[or an arbitration award in a case where a notification has been issued under sub-section (3-A) of section 10-A] or an award of a Labour Court, Tribunal or National Tribunal, which has become enforceable shall be binding on—

- (a) all parties to the industrial dispute;
- (b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, <sup>3</sup>[arbitrator], Labour Court, Tribunal or National Tribunal as the case may be, records the opinion that they were so summoned without proper cause;
- (c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

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1. Inserted by Act 36 of 1956 and former section 18 was renumbered as sub-section (3) of that section.

2. Subs. by Act 36 of 1964.

3. Ins. by *ibid.*

- (d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of dispute, and all persons who subsequently become employed in that establishment or part.

19. **Period of operation of settlement awards.**—(1) A settlement shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months, from the date on which the memorandum of settlement is signed by the parties to the dispute and shall continue to be binding on the parties after the expiry of the period aforesaid until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(3) An award shall, subject to the provisions of this section, remain in operation for a period of one year from the date on which the award becomes enforceable under section 17-A:

Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit:

Provided further that the appropriate Government may, before the expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit, so however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(4) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been a material change in the circumstances on which it was based, the appropriate Government may refer the award or a part of it to a Labour Court, if the award was that of a Labour Court, or to a Tribunal, if the award was that of a Tribunal, or of a National Tribunal for decision whether the period of operation should not, by reason of such change, be shortened and the decision of Labour Court or the Tribunal, as the case may be, on such reference shall be final.



(5) Nothing contained in sub-section (3) shall apply to any award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by the award.

(6) Notwithstanding the expiry of the period of operation under sub-section (3), the award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

<sup>1</sup>[(7) No notice given under sub-section (2) or sub-section (6) shall have effect, unless it is given by a party representing the majority of persons bound by the settlement or award, as the case may be.]

**20 Commencement and conclusion of proceedings**—(1) Conciliation proceedings shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the Conciliation Officer or on the date of the order referring the dispute to a Board, as the case may be.

(2) A conciliation, proceeding shall be deemed to have concluded—

(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(b) where no settlement is arrived at, when the report of the Conciliation Officer is received by the appropriate Government, or when the report of the Board is published under section 17, as the case may be; or

(c) when a reference is made to a Court, Labour Court, Tribunal or National Tribunal under section 10 during the pendency of conciliation proceedings.

(3) Proceedings before an arbitrator under section 10-A or before a Labour Court, Tribunal or National Tribunal, shall be deemed to have commenced on the date of the reference of the dispute for arbitration or adjudication, as the case may be, and such proceedings shall be deemed to have concluded on the date on which the award becomes enforceable under section 17-A.

**21. Certain matters to be kept confidential.**— There shall not be included in any report or award under this Act any information obtained by a Conciliation Officer, Board, Court, Labour Court, Tribunal, National Tribunal or an arbitrator in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such Officer, Board, Court, Labour Court, Tribunal, National Tribunal or arbitrator if the trade union, person, firm or company, in question has made a request in writing to the Conciliation Officer, Board, Court, Labour Court, Tribunal, National Tribunal, or arbitrator, as the case may be, that such information shall be treated as confidential; nor shall such Conciliation Officer or any individual member of the Board or Court or the presiding officer of the Labour Court, Tribunal or National Tribunal or the arbitrator or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be :

Provided that nothing contained in this section shall apply to disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code (XLV of 1860).

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## CHAPTER V

### STRIKES AND LOCK-OUTS

**22. Prohibition of strikes and lock-outs.**— (1) No person employed in a public utility service shall go on strike in breach of contract—

- (a) without giving to the employer notice of strike, as hereinafter provided, within six weeks 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 as aforesaid; or
- (d) during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings.