

LABOUR JUDICIARY, ADJUDICATION AND INDUSTRIAL JUSTICE (1994).

Edited by Debi S. Saini. Oxford and IBH Publishing Co., New Delhi. Pp. xiii+257. Price Rs. 295.

THE BOOK¹ under review is a collection of papers by eminent writers. Justice D.A. Desai has given a number of instances where workers were dismissed for no reason at all or on some cooked up facts and by fabricating evidence.² He has in his paper suggested that all labour adjudicators must do social justice in accordance with the directive principles of state policy. He has specially spoken of social justice with reference to the directive of "giving living wages to the workers".³

Upendra Baxi on the other hand talks about sections 11A and 25G.⁴ Section 11A empowers the labour judiciary to reinstate workers who have been dismissed for wrong reasons such as those illustrated by Justice Desai in his paper. Section 25G of the Industrial Disputes Act, contains the rule of equity of "equities being equal, the prior in time prevails". We think that is a most wholesome rule even in its application of "last come first go" and "first come last go" in the area of the law of retrenchment.

Baxi has written an excellent paper. He mainly emphasises on professionalism on the part of labour judiciary.⁵ One of the most salient points he makes is that High Courts and industrial tribunals must cut down the delay in handing out their awards. We would agree with the author because in most cases delay defeats equity. Another most relevant point that he makes concerns the expanding jurisdiction of High Courts in entertaining writ petitions. Indeed many of the questions, particularly those relating to wages, must be expeditiously decided by tribunals and High Courts must refrain from sitting on appeal. The rising cost of living neutralises whatever wage increases are awarded by tribunals by the time High Courts give their judgments.

The best paper in the book is that of Debi S. Saini, the editor of the publication. Criticising the court-like procedure of the industrial tribunals and labour courts, he says:

It is noticeable that the formalities of the court-like nature were expected to be minimised by adjudicatory bodies envisaged under the IDA. This was done to show sensitivity to the exigencies of industrial relations while processing industrial disputes. To that effect, tribunals were, therefore, to project themselves as institutions capable of substituting the voluntary

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1. Debi S. Saini (ed.), *Labour Judiciary, Adjudication and Industrial Justice* (1994).
 2. *Id.* at 116-9.
 3. *Id.* at 111-3.
 4. *Id.* at 57.
 5. *Id.* at 53-7.

procedures, in the event of failure of negotiations so as to be made use of by parties as effective aids to industrial dispute resolution.⁶

We agree with this criticism. There are a number of other good papers in the book written by academics and scholars from disciplines such as law, law and society, law and development, labour sociology, labour economics and industrial relations, jurists and judges.

The book comprises four parts: (i) systemic issues in labour adjudication; (ii) framework of industrial conflict dynamics; (iii) constitutional vision and industrial adjudication; and (iv) substantive issues in industrial justice dispensation. It contains an excellent introduction by Debi S. Saini.⁷

The get up and printing are pleasing to the eye. The book should be read by our policy makers and judges. They have a great deal to learn from it.

We would like to add to this review that when India became independent there was a policy decision to industrialise it. For industrialisation it needed capital to be invested in the industry. In the interest of capital formation therefore the wages of the workers were kept at a bare minimum. The result of pegging the wages was that huge profits were made by industrialists. A great deal of these profits was hidden and took the shape of black money. This black money was not used in further industrialising the country. It was used in paying subscriptions to political parties. Also the "five star" culture developed. Money was lavishly used in payment of bribes also. Creation of black money and freezing the wages resulted in what Justice Desai has described as the rich getting richer and the poor getting poorer. The gap between the rich and the poor is very wide and there is a pressing need to minimise such stark differences in incomes.

The time has now come to have a full-fledged system of industrial adjudication. A large number of industrial courts with experts in labour matters need to be established. These, as Baxi says, should have a sense of professionalism about them. The government must surrender its powers to make references. The aggrieved parties on their own should be able to move industrial courts. With the open economy being established in the country, the adjudicators must also award living wages in accordance with the directive principles of state policy as ably advocated by Justice Desai.

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6. *Id.* at 26.

7. *Id.* at 1.

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