



Worker's Right and Employment Security with Reference to New Labour Codes 2020 – A Critical Investigation

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Abstract : The Industrial Employment (Standing Orders) Act, 1946, was enacted by the Central Government to address the lack of standing orders in industrial undertakings. Before this Act, conditions of employment were governed by contracts between employers and employees, often leading to uncertainty and ambiguity. The Act aimed to regulate the conditions of recruitment, discharge, disciplinary action, and holidays for workers in industrial undertakings. It also introduced uniformity of terms and conditions for workmen in the same category and discharging similar work in the same establishment. The Act requires employers to define their conditions of service in writing and obtain certification to avoid unnecessary industrial disputes. The government can apply the Act to any industrial establishment employing a specified number of persons, but must give two months' notice before extending it.

Keywords: Workers Rights, Labour Rights, Employment Security, Social Justice, Labour Code in Indi

Introduction

The absence of Standing Orders in establishment very often led to friction between the management and workers in industrial undertakings in our country. Before passing of this Act the conditions of employment were governed by contracts either express or implied between the employers and their employees in different industrial undertakings. In many cases these conditions were not well defined and suffered from doubt and ambiguity.

With the advent of Trade Unionism and collective bargaining new problems of maintaining industrial peace and production for the society were

created. It was then considered that the society had a vital interest in the settlement of terms of employment of industrial labour and thus the settlement of labour problems became tripartite and the State, representing the society entered on the scene.¹

Tripartite Labour Conferences

The importance of making a law defining precisely the conditions of employment was emphasised during discussions in the Tripartite Labour Conferences. To give effect to the new ideology the Industrial Employment (Standing Orders) Act, 1946 was enacted by the Central Government. It is obligatory upon all the employers covered

¹ Western India Match co. v. Workmen, AIR 1973 SC 2650.



by this Act to define conditions of employment under them. The conditions of employment must also be made known to workmen employed by such employers. The Preamble of the Act makes it amply clear that the Standing Order shall deal with the "conditions of employment of workers in industrial establishment". These words are wide enough to include acts which may be committed even out of the factory premises.² The object of the Act is to regulate the conditions of recruitment, discharge, disciplinary action, holidays etc., of the workers employed in industrial undertakings, The Act has also introduced uniformity of terms and conditions of employment in respect Of workmen belonging to the same category and discharging the same or similar work in an industrial establishment.³

Sec. I. Application of the Act.-The object of the Standing Orders is to make it clear to both the parties on what terms and conditions the workmen are offering to work and the employer is offering to engage them. This Act requires the employers to define the conditions of service in their establishments and reduce them to writing and to get them compulsorily certified with a view avoid unnecessary industrial disputes.⁴ The Act applies to every industrial establishment :-
(1) situated within the Indian Union, except the State of Jammu and Kashmir;
(2) employing 100 or more workmen on any day of the preceding 12 months.

The appropriate Government may by a Gazette notification apply the Act to any Industrial establishment employing

such number of persons as Specified in the notification. The number of employees fixed by the Government may be less than 100. But the Appropriate Government must give two months, prior notice of its intention to make any such extension of the Act.

The Act does not apply to the following establishments:-

- (1) Any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 apply;
- (2) Any industrial establishment to which the provisions of the up. Industrial Employment (S.O.) Act, 1961 apply :

Provided that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961, the provisions of this Act shall apply to all industrial establishments under the control of the Central Government.

It was held in Avery India Ltd. v. Second Industrial Tribunal, West Bengal,⁵ that the provisions as to the age of retirement in the standing orders of an establishment would apply to all employees irrespective of whether they entered into service prior to or subsequent to the coming into force of the standing orders and even though there was no such provision for retirement in the past.

In absence of any standing orders or rules, law of master and servant governs relationship between employees and employer.⁶ When the employer chooses to provide sick leave under the Standing Orders which in view of the preamble of the Act is really a part of the conditions of service by which the

² The Aluminium Industries Employees' Union v. Aluminium Industries Ltd., AIR 1963 Orissa 169.

³³ Salem Erode Electricity Distribution Company (Pvt.) Ltd. v. Employees' Union, AIR 1966 sc 808.

⁴ Shahadara S. Light Railway Co. v. S.S. Railway Workers Union, AIR 1969 SC 513.

⁵ AIR 1972 SC 1626.

⁶ Management of M.I.S. Shiva Flour Mills, Bhagalpur v. Workmen, AIR 1970 Pat. 273'



employer is bound, the Standing Order confers on the employee as a matter of contract the right to sick leave.⁷ The employee can exercise his right and the employer cannot require him to seek the sickness benefit under the Employees' State Insurance Act.

Sec. 13-B. Act not to apply to certain industrial establishments.-The Act does not apply to such workmen employed in any industrial establishment as are covered by the following rules and regulations:-

- (1) The Fundamental and Supplementary Rules;
- (2) The Civil Service (Classification, Control and Appeal) Rules;
- (3) The Civil Services (Temporary Service) Rules;
- (4) The Revised Leave Rules;
- (5) The Civil Services Regulations;
- (6) The Civilians Defence (Classification, Control and Appeal) Service Rules;
- (7) The Indian Railway Establishment Code; or
- (8) Any other Rules or Regulations that may be notified in this behalf by the appropriate Government in the Official Gazette.

Evidently these rules do not apply to industrial establishment under private management or under the management of a statutory Corporation. The Appropriate Government may extend the Act to any class or classes of industrial establishments as it deems fit.

In U.P.S.E. Board v. Hari Shanker, the two workmen were originally employed by Messrs Seth Ram Gopal and partners who were licensees for the distribution of electricity. The certified standing orders of this company

did not prescribe any age of superannuation for the employees. This undertaking was later on purchased by the U.P. State Electricity Board With effect from 15-12-1964 and thereafter its employees became the employees of U.P.S.E. Board. The Board, to which the Industrial Employment (Standing Orders) Act, 1946 applies, neither made nor got certified any standing orders but considered the certified standing orders of the establishment of Messrs Seth Ram Gopal and Partners as applicable to the Employees even after the purchase of the undertaking by the Board. On May 28, 1970 the Governor of U.P. by a Gazette notification issued under section 13-B of the Industrial Employment (Standing Orders), Act, 1946 prescribed the age of retirement of the employees of the Electricity Board. The two workmen were retired by the Board in pursuance of this notification with effect from July 2, 1972 and July 7, 1972 respectively. The respondents thereupon filed a writ petition challenging the regulation as valid and effective. The Court observed that the Industrial Employment (Standing Orders) Act is a special law in regard to the matters enumerated in the Schedule and the regulations made by the Electricity Board under the Electricity (Supply) Act with respect to any of those matters are of no effect unless such regulations are either notified by the Government under section 13-B or certified by the Certifying Officer under section 5 of the Industrial Employment (Standing Orders) Act, 1946. The Industrial Employment (Standing Orders) Act, 1946 deals with a specific subject, namely, the conditions of service enumerated in the Schedule, of workmen

⁷ M.L. Kantarao v. Azam Jahi Mills Ltd. Warangal, 1970 Lab. l.c., 585 (AP)



in industrial establishment. Therefore, the provisions of the Standing Orders Act must prevail over section 79 (c) of the Electricity (Supply) Act in regard to matters to which the Standing Orders Act applies.

It was further held in this case that the expression "workmen to whom any other rules or regulations that may be notified in this behalf" means in the context of section 13-B workmen enjoying a statutory status in respect of whose conditions of service the relevant statute authorises the making of rules or regulations. The expression cannot be construed so narrowly as to mean Government servants only, nor can it be construed so broadly as to mean workmen employed by whomsoever including private employers, so long as their conditions of service are notified by the Government under section 13-B.

Sec. 14. Power to exempt.-Section 14 of the Act authorises the appropriate Government to exempt conditionally or unconditionally any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

But the question that arose before the Court in Raman Nambisan v. Madras State Electricity Board,⁸ was whether the power to exempt any industrial establishment would include the power to exempt a section of the industrial establishment also. It was held that : "Section 14 enables the Government to exempt any Industrial establishment or class of establishments from all or any provisions of the Act and not a section of the industrial establishment."

Special features of the Act.-The following are some of the main features of the

Industrial Employment (Standing Orders) Act, 1946:-

- (1) The employer of every industrial establishment to which the Act applies is required to frame draft Standing Orders and to submit them to the Certifying Officer, who is generally the Labour Commissioner, for certification;
- (2) The definition of workmen under this Act includes a "Supervisory Technical Personnel" under certain conditions;
- (3) The certifying officer is empowered to modify or add to the draft Standing Orders so as to render them certifiable under the Act;
- (4) A group of employers of similar industrial establishments may submit joint Standing Orders for certification;
- (5) The Government may by rules set out model Standing Orders for the purposes of this Act. The Draft Standing Order framed by an employer should as far as practicable be in conformity with the Model Standing Orders;
- (6) This Act normally applies to every industrial establishment wherein one hundred or more workmen are employed;
- (7) The certifying officers and appellate authorities shall have all the powers of a Civil Court in respect of certain matters provided in section 19 of the Act;
- (8) The employer can be penalised for failure to submit draft Standing Order for certification or for contravention of any provision of the Standing Order finally certified;
- (9) The appropriate Government may by a Gazette notification exempt any

⁸ (1967) 1 LU 252 (Mad).



establishment or class of industrial establishments from any of the provisions of the Act;

(10) The appropriate Government may after previous publication by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Sec. 2. Interpretation-(a) Appellate authority.-Appellate authority means an authority appointed by the appropriate Government by notification in the Official Gazette to exercise, in such area as may be specified in the notification, the functions of an appellate authority under this Act.

But in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) Amendment Act, 1963, that Court or authority shall be deemed to be the appellate authority.

(b) Appropriate Government.-The Central Government is deemed to be the appropriate Government in respect of the following industrial establishments:

(a) an establishment under the control of the Central Government; c (b) Railway administration; or

(c) establishment in a major port, mine, or oilfield.

In all other cases appropriate Government means State Government. Proviso added by the Amendment Act of 1982 provides that where art) question arises as to whether any industrial establishment is under the control of the Central Government, that Government may either on a reference made to it by the employer or the workmen, or a trade union or other representative body of the workmen or on its own motion and after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties.

(c) Certifying Officer.—The following are said to be certifying officers under this Act ;

(1) A Labour Commissioner; or

(2) A Regional Labour Commissioner; or

(3) Any other officer appointed by the appropriate Government, by notification in the Official Gazette, to perform all or any of the functions of a certifying officer under this Act.

Employer.—The expression 'employer' means the owner of an industrial establishment to which this Act for the time being applies. It also includes

(1) in a factory, any person named under clause (f) of, sub-section (1) of section 7 of the Factories Act, 1948, as manager of the factory; or

(2) in an industrial establishment under the control of any department of any Government in India, the authority appointed by such Government, in this behalf or where no authority is so appointed the head of department; or

(3) In any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment. (e) Industrial Establishment.—

The expression industrial establishment means—

(1) an industrial establishment as defined in clause (ii) of section 2 of the Payment of Wages Act, 1936; or

(2) a factory as defined in clause (m) of section 2 of the Factories Act, 1948; or

(3) A railway as defined in clause (4) of section 2 of the Indian Railways Act, 1890; or

(4) The establishment of a person who for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen.

In Karnataka Agro Industries Corporation Employees' Association v.



State of Karnataka,⁹ the Karnataka Agro-Industries Corporation, a Government Company has five workshops governed by the Factories Act in different parts of the State of Karnataka. It has an administrative office attached to one workshop and the majority of the workmen are working in the administrative office and 150 workmen are working in the workshops. Service rules framed.

Preliminary

History of Trade Unionism in India.—The germs of trade unionism in India can be traced back to the year 1890, when for the first time an association of mill workers was formed in the name and style of 'Bombay Millhands Association'. This association was formed for the redressal of grievances of the Bombay mill workers. It is difficult to treat this association as Trade Union in the strict sense in which this expression is used now-a-days. %Very little account is available about its mode of working. After the first world war was over the cost of living considerably increased. The political agitation against foreign rule was also gaining momentum throughout the country. The increase in cost of living and country-wide political upsurge found its way in economic discontent amongst masses, particularly in industries. The industrial unrest and economic discontent led to a number of strikes by workers, guided and controlled by their Action Committees consisting of representatives of workers themselves. On many occasions these strikes were successful in getting the demands of the workers fulfilled. The Trade Union movement in India got impetus by the success of strikes in India and the world-wide uprising of labour

consciousness. The establishment of International Labour Organisation has also influenced the growth to the trade union movement in our country.

The progress of the trade union movement in India in pre-independence days has not been very satisfactory, but the post-independence has been a tremendous Trade Union activity in every sphere of industry. Now there is hardly any category of workers which has no Union of its own. The Royal Commission on Labour in India has observed.

"Trade Unionism to be fully effective, demands two things : a democratic spirit and education. The democratic ideal has still to be developed in the Indian workers and the lack 'of education is the most serious obstacle of all. The latter difficulty does not arise merely or even mainly from illiteracy. Few Trade Unions can afford to conduct benevolent work, and the majority find it hard to convince the worker that a subscription is worthwhile except when a dispute is imminent or in progress."¹⁰

Development of Trade Union Law in India.-After independence democratic spirit is gradually developing among the Indian citizens and the workmen in industry are not an exception to it. It was in the year 1920 that the High Court of Madras in a suit filed against the officials of the Madras' textile Labour Union by Binny & Co. granted an injunction restraining the Union Officials to induce certain workers to break their contracts of employment by refusing to return to work. Obviously the leaders of the Trade Union found themselves liable to prosecution and imprisonment even for bona fide, trade union activities. It was then that they felt that some legislative protection of Trade

⁹ (1987) 11 LW 62 (Karn.).

¹⁰ Report of Royal Commission on Labour in India, p. 321.



Union was necessary. Mr. N.M. Joshi, the then General Secretary of All India Trade Union Congress, successfully moved a resolution in the Central Legislative Assembly seeking introduction of some measure by the Government for protection of Trade Unions. The employers were so much opposed to any such legislative measure being adopted that the passing of the Indian Trade Union Act could only be possible in 1926. But this Act was enforced only from 1st June, 1927.

The contribution of the capital and labour in any industry is equally important. Therefore, the prosperity of an industry depends upon the co-operation of its two components—the capital and the labour. As disputes between the capital and the labour are inevitable so the object of any industrial legislation is to ensure smooth relationship between the two and to strive for settlement of any dispute by resorting to negotiation and conciliation. The importance of the Trade Unions lies in the fact that they encourage such collective bargaining as ensures better terms and conditions of employment' to the labour, and at the same time endeavours for maintenance of good 'relations between employer and employees. In their endeavour to secure better working conditions, privileges and amenities to the labour, the Trade Unions adopt certain methods, namely, legislation, collective bargaining, mutual insurance, and strike. The method of mutual insurance is almost unknown to Trade Unions in India.

The original Act of 1926 was amended in 1929 so as to provide for the procedure of appeal against the decisions of the Registrar. When the Registrar refused to register a Trade Union or when the registration was withdrawn, an appeal could be preferred against any such

decision of the Registrar. The Royal Commission on Labour, after examining the working of the Act made the following recommendations

(1) The Act was to be re-examined within 3 years. The limitations imposed upon the activities of the Trade Unions and their office-bearers were to be reconsidered. It should be ensured that a bona fide Trade Union is not deprived of applying for registration.

(2) The accounts of the Trade Union should be audited free of charge by Government officers.

(3) At least two-third members of the executive of a Trade Union should persons actually engaged or employed in industry to which the union relates.

(4) Trade Unions should not be deprived of carrying on co-operative societies.

The original Trade Unions Act of 1926 made provisions in respect of— (i) Conditions governing the registered Trade Unions.

(ii) Obligations imposed upon a registered Trade Union.

(iii) Rights and privileges of a registered Trade Union.

Under the original Trade Unions Act of 1926, where the object of a Trade Union was not confined to one State the appropriate Government was the Central Government and the powers of the provincial Governments in respect of such Unions were by the Government of India (Adaptation of Indian Laws) Order, 1937 vested in the Central Government. But after the first Labour Ministers' Conference held in January 1940, the powers in respect of a Union whose object was not confined to one State, were to be exercised by the Government of that province where the registered office of the Union was situated.

(i) participation, support or instigation of an irregular strike;



- (ii) submission of returns containing false statement;
- (iii) discharge or discrimination against any officer of a recognised Trade Union;
- (iv) interference with the formation or administration of a Trade Union.

Trade Union Bill 1950.—The Amending Act of 1947 did not provide for inspection of books of Trade Unions by the Registrar of Trade Unions. The Chief Labour Commissioner (Central) in his report on the representative character of the All-India Trade Union Congress suggested that the periodical inspection of registers, records and account books of the Trade Unions by the Registrar or some other person deputed by him was necessary for the development of Trade Unions on healthy lines. The matter was also discussed at the eleventh session of the Standing Labour Committee in January 1949. On the basis of the discussions held the Standing Labour Committee a Trade Union Bill, seeking to make some new provisions was introduced in Parliament in February 1950. This Bill lapsed with the dissolution of Parliament.

The desirability of enacting suitable legislation was considered by the Indian Labour Conference held in October, 1952. The Indian Trade Union (Amendment) Act of 1960 made some changes in sections 2 (f), 3, 4, 6, 14, 16 and 28 of the Act. By the Indian Trade Union (Amendment) Act of 1964 the word 'Indian' has been deleted from the Act.

Sec. 2. Definitions Government.— The expression "Appropriate Government" has been defined in relation to the objects of the Trade Union. In relation to a Trade Union whose objects are not confined to one State, the "Appropriate Government"

is the Central Government. In relation to all other Trade Unions the State Government is the Appropriate Government.

(a) Executive.—"Executive" means the body to which the management of the affairs of a Trade Union is entrusted. By what name the managing body is known, is immaterial. Thus the only requirement for any body to be "executive" under this clause is that it should be responsible for managing the affairs of a Trade Union. Where the executive committee of the Union constituted for 'management of the Union, and execution of its policy' resolved to espouse the cause of an individual employee it was held that the objects of the committee are wide enough to cover this resolution.¹¹

(b) Office Bearers.—In case of a Trade Union the expression 'office bearers' includes any member of the executive of the Trade Union. But an auditor is not deemed to be an office bearer of the Trade Union.

(c) means prescribed by regulations made under this Act.

(d) Registered Office.—"Registered Office" means that office of a Trade Union which is registered under this Act as the head office of such Trade Union. (e) Registered Trade Union.—"Registered Trade Union" means a Trade Union registered under this Act.

(f) Registrar.—As provided in section 2 (f) Registrar means :—

(i) a Registrar of Trade Unions appointed by the appropriate Government under section 3. Registrar also includes an Additional or Deputy Registrar of Trade Unions, and

(ii) in relation to any Trade Union, the Registrar appointed, for that State in

¹¹ M.L. Garg v. Labour court, Meerut, 1970 Lab. 1.c. 522 (All.).



which the head or registered office of the Trade Union is situated. (g) Trade Dispute.—The expression "Trade Dispute" has been defined in the first part of section 2 (g) of this Act in relation to parties and the nature of the dispute. "Trade Dispute" means any dispute— (1) (a) between employer and workmen; or (b) between workmen and workmen; or (c) between employers and employers.

(2) Any such dispute must be connected with —

(i) the employment; or

(ii) non-employment; or

(iii) the terms of employment; or

(iv) the conditions of labour, or any person

The definition of "Trade Dispute" in this Act is almost identical with the definition of "Industrial Dispute" in the Industrial Disputes Act. For a trade dispute it is necessary that there must be some difference between the parties as aforesaid, that is, a demand from one party and refusal to accept those demands by the other party. There can be no dispute by the unilateral action of one party; which means the demand must be communicated to the other party. No trade dispute can be said to have arisen unless an opportunity to the other party is given to express any view or indicate any positive or negative relation thereto.¹ Further the dispute must be real and substantial between the parties to such dispute. Unless parties to the dispute have a direct or substantial interest in the employment, non-employment, or conditions of labour of the person regarding whom the dispute is raised, it cannot be said to be a real and substantial dispute between them.² Where the workmen of a tea estate raised a dispute regarding the termination of service of a person belonging altogether to different category from them, the Supreme Court held that there was no industrial dispute

within the meaning of law as the appellant workman had no direct or substantial interest in his employment or non-employment even if he was a member of the Trade Union.³ Where the workmen of an oil company made a demand to treat the labourers employed through contractors as regular workmen of the company, the Supreme Court held that the "matter is certainly of some importance to the workmen and in the circumstances it could not be said that the dispute was not a real and substantial dispute between the company and its regular workmen."

Individual Dispute and Trade Dispute:—As observed by the Supreme Court, an individual dispute cannot per se be a trade dispute unless the cause is sponsored by a Trade Union or by a substantial number of workmen.⁵ It is not necessary that it should be supported by all or majority of the workmen, but it should have the support of substantial section of workmen of the establishment. It is not the arithmetical majority of the workmen but the substantiality of their number taking up the cause, which is to be considered. It does not matter that

The dispute is not raised by a majority of the workmen. An industrial dispute may be raised by a group of workmen who may not represent all or even the majority of workmen, and if the dispute is referred to the Industrial Tribunal for adjudication and an award is made, it binds not only the parties to the dispute, or other parties summoned to appear; but all persons who were employed in the establishment, or who would be employed in future are also governed by the award.

Employment and non-employment.—The use of the expression "employment or non-employment" in the Act makes it clear that the dispute may be



connected with the workman in employment or out of employment. That means a dispute connected with a dismissed, discharged, removed or retrenched employee is a Trade Dispute. It has been observed by the Federal Court that reinstatement is connected with non-employment and is, therefore, within the words of the definition. So also, a claim for compensation for wrongful dismissal being connected with the question of non-employment is a Trade Dispute.

Workman.—The latter part of section 2 (g) of this Act defines "workmen" as follows :- "Workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the Trade Dispute arises. This definition has two ingredients :

(1) "Workmen" means all persons employed in trade or industry.

(2) It is immaterial that the persons employed in a trade or industry are not in the employment of the employer with whom the Trade Dispute arises. The word "trade" has not been defined in t12 Act. So also the word "industry" although not defined in this Act, is defined in section 2 (j) of the Industrial Disputes Act. Industry may be said to be an activity systematically or habitually undertaken for the production or distribution of goods or for rendering of material services to the community at large or part of such community with the help of the employees. In the same case it has further been observed that industrial activity involves the co-operation of the employer and the employees and its object is the satisfaction of material human needs. The definition of "workmen" embraces in it a dismissed, discharged, removed or retrenched employee also. Further, the

workmen must be employed in trade or industry, whether under the same employer with whom the dispute arises or under a different employer connected with the same or similar industry.

(h) Trade Union.—Section 2 (h) defines "Trade Union" which can be analysed into the following ingredients :

(1), Any combination whether temporary or permanent;

(2) The combination should have been formed for the purposes of : (a) regulating the relations between :workmen and employers; or workmen and workmen; or

(i) employers and employers; or

(b) imposing restrictive conditions on the conduct Of any trade or business. But this Act shall not affect .

(i) any agreement between partners as to their business; or

(ii) any agreement between an employer and those employed by him as to such employment;

(iii) any agreement in consideration of the sale of the goodwill of a business or instruction in any profession, trade or handicraft.

A Trade Union is a continuous association of wage earners for the purpose of maintaining the conditions of their lives.¹² But the statutory definition given in the Trade Unions Act, 1926 uses the expression 'combination' instead Of 'association' used in Sydney's definition. The word 'combination' carries a very wide meaning. Whatever may be the 'combination' if it is for one or the other of the statutory objects (as provided in this Act) it is Trade Union. It is the primary object of an association which determines its nature. A society consisted of authors, publishers and other owners of copyright

¹² Sydney and Beatrice Webb, History of Trade Unions.



and was formed for the protection of copyright in music and songs. There were also certain rules which could be regarded as imposing certain restrictions on the trade of the individual music publishers who became members of the association. The society was held by the House of Lords to be not a Trade Union because the principal object of the society was the protection of the copyright.¹³ It was further held that, to come within the statutory definition, restrictive conditions imposed & must be in respect of trade or business in general and imposition of such conditions on particular members of a trade or business will not suffice.¹⁴ Tamil Nadu N.G.O. Union included among its members Sub-Magistrates of the Judiciary, Tahsildars, officers incharge of Treasuries and Sub-Treasuries, officers of Civil Court establishment, and the Home-Department of Government. Their union could not be recognised as a Trade Union for these persons were civil servants engaged in the task of the sovereign and regal aspects of the Government which were its inalienable functions.¹⁵

Sec. 14. Certain Acts not to apply to registered Trade Union.—The following Acts shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void. The Acts are as follows :

- (i) The Societies Registration Act, 1860; 1912;
- (ii) The Co-operative Societies Act, 1912;
- (iii) The Companies Act, 1956.

Conclusion

An industrial dispute can be raised by a group of workmen, and if referred to the Industrial Tribunal, it binds all parties involved, including those

employed in the establishment or future employers. The term "industry" is defined in section 2 (j) of the Industrial Disputes Act, which refers to an activity systematically or habitually undertaken for the production or distribution of goods or material services. Workmen, including dismissed, discharged, removed, or retrenched employees, must be employed in trade or industry. A Trade Union is a continuous association of wage earners to maintain their living conditions. The statutory definition of a Trade Union uses the expression "combination" instead of "association," which carries a wide meaning. The House of Lords held that a society formed for copyright protection was not a Trade Union.

¹³ Petforming Right Society v. London Theatres of Varieties, 1924 A.C.I.

¹⁴ Ibid.

¹⁵ Tamil Nadu N.G.O. Union v. Registrar Trade Unions, AIR 1962 Mad. 234.