



## SUBJECT MATTER OF JURISDICTION OF AN INDUSTRIAL TRIBUNAL

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### ABSTRACT:

*The purpose of creating an industrial tribunal was to introduce compulsory adjudication where voluntary negotiation fails and the 'appropriate government' believes that the matter is grave enough to be referred to a tribunal. In order to work properly it was felt by the legislature to limit the jurisdiction of such tribunal or courts. As a result two schedules were created. While the intention of legislation has been to create a level playing field industries have tried to evade jurisdiction of the tribunal by taking recourse to quibbling minute points of law. It became necessary to plug all holes in this welfare legislation. As a result Section 10 is one of the most amended sections with the largest number of state amendments. This has been meant that over the years the jurisdiction of tribunals has had to be interpreted a number of times.*

**Keywords:** Industrial Tribunal, Negotiation, Legislature and Legislation, Section 10 and Jurisdiction.

### INTRODUCTION:

The preamble of the Industrial Disputes (ID) Act, 1947 states that the purpose of the ID Act is 'to make provisions for the investigation and settlement of industrial disputes and for certain other purposes' However there was no provision for any adjudicatory mechanism in the Trade Disputes Act, 1929, the precursor of the present Industrial Disputes Act, 1947<sup>[1]</sup>. Tribunals were for the first time created in 1947 as a 'dispute redressal mechanism by adjudication'<sup>[1]</sup>. The Industrial Disputes Act (ID Act in short), 1947 defines a Tribunal under section 2(r) which lays down that "Tribunal means an Industrial Tribunal constituted under section 7A and includes an Industrial Tribunal constituted before the 10th day of March, 1957, under this Act", the purpose of creating an industrial tribunal was to introduce compulsory adjudication where voluntary negotiation fails and the 'appropriate government' believes that the matter is grave enough to be referred to a tribunal<sup>[2]</sup>. However in order to work properly it was felt by the legislature to limit the jurisdiction of such tribunal or courts<sup>[2]</sup>. As a result two schedules were created, the second schedule referred to matters within jurisdiction of labour courts and the third schedule which referred to matters within the jurisdiction of Industrial tribunal<sup>[2]</sup>.

Section 10(1)(d) of the ID act further discusses the jurisdiction of Industrial tribunals and provides that matters from third schedule of the ID act can be referred and in certain cases



even matters from second schedule can be referred to the tribunal <sup>[3]</sup>. As the litigants in industrial cases are from unequal bargaining powers, it was thought that the ID Act would level the playing field <sup>[4]</sup>. However industries took recourse to each minute legalities and tried to evade jurisdiction of the tribunal. Hence it became of paramount interest to the legislature and the judiciary to plug all holes in this welfare legislation <sup>[5]</sup>. In fact Section 10 is one of the most amended sections with the largest number of state amendments <sup>[6]</sup>. And thus over the years the jurisdiction of tribunals have to be interpreted quite a number of times <sup>[6]</sup>.

### **Industrial Tribunal Structure**

The 'appropriate government' has been empowered by s 7A of the ID Act to constitute one or more industrial tribunals. The central government can appoint tribunals in any state for adjudication of industrial disputes in relation to which it is appropriate government. A state government may constitute one or more industrial tribunal in its territory for adjudicating the matter in respect to which it is the appropriate government. The appointment of the industrial tribunal has to be by notification in official gazette <sup>[7]</sup>.

The moment a notification is issued the establishment of industrial tribunal is complete. The appointment of presiding officer though essential is a separate matter. However the appropriate government can constitute a tribunal and make an appointment of the presiding officer simultaneously <sup>[8]</sup>.

Per the statute a person shall not be qualified for appointment as the presiding officer of a Tribunal unless he is, or has been, a Judge of a High Court; or he has, for a period of not less than three-years, been a District Judge or an Additional District court, this issue was agitated in *Paulose v State of Kerala* where the government had entrusted the work of selection of presiding officers to advocate general, this mode of selection was challenged. It was contended that the appointment has to be done by advertising in a newspaper, however the court held that it is not necessary that the state must in every case of public appointment issue an advertisement or notice inviting applications for office <sup>[9]</sup>.

Under the provisions of s 7A the appropriate government has ample power of constituting an industrial tribunal for limited time intending thereby that its life would automatically come to an end on the expiry of that time. Again the appropriate government has wide discretion to appoint tribunals for any limited time or for a particular case or for a particular area. When a tribunal constituted for a limited period automatically comes to an end after the expiry of that period the appropriate government can constitute another tribunal and refer to it the disputes which were pending before the first tribunal <sup>[10]</sup>.

Once the tribunal has been constituted and its appointment has been duly notified along with the name of presiding officer who is appointed to it, disputes may be referred to such tribunal by appropriate government under s 10 of the ID act <sup>[10]</sup>.

A tribunal once appointed cannot be abolished by an executive act merely because the government chooses to put an end to it when a reference is pending before it, for the state cannot do indirectly what is not expressly permissible in the ID act <sup>[10]</sup>.



## Industrial Tribunal Jurisdiction

The discretion of the appropriate government under S 10(1)(d) of ID act is very wide. To refer an industrial dispute or any matter appearing to be connected with or relevant to the dispute, whether it relates to any matter specified in the second schedule or third schedule to a tribunal for adjudication. The matter appearing to be connected with or relevant to the dispute in respect of which a reference is made, need not be related to any matter specified in the second or third schedule <sup>[11]</sup>.

The first proviso to S 10(1) however lays down that where the dispute relate to a matter specified in the third schedule and is not likely to affect more than 100 workmen, the appropriate government has the discretion to make the reference to a labor court. Thus whereas questions arising out of second schedule can be adjudicated both by tribunal as well as labour court question arising from matters arising out of third schedule can be referred for adjudication to a tribunal alone, unless the case falls under the first proviso to s 10(1)(d) of the ID act <sup>[12]</sup>.

The policy of the legislature while S 7 and 7A was to confer jurisdiction to adjudicate disputes arising from the matters in the second schedule on the labour court as well as the tribunal, while it wanted to give jurisdiction to the tribunal alone on the disputes arising from the matter enumerated in the third schedule. In other words, except for the matters enumerated in the third schedule, the legislature wanted to confer jurisdiction upon both labour court and tribunal. In case of an industrial dispute relating to matters other than those specified in second or third schedule, the legislature included the residuary item 6, in the second schedule under which both the labour court as well as the tribunal will have jurisdiction to adjudicate. Thus, there is a marked distinction between the jurisdiction of the labour court and that of the industrial tribunal. While the labor court functioning for all purposes enumerated under the act, and certain duties and responsibilities as prescribed therein the matters to be dealt which are within the jurisdiction of the tribunal as prescribed under S 7A are entirely different <sup>[13]</sup>.

From the language of the various clauses of subsection 1 of s 10 of ID Act, it is clear that before the authorities mentioned in clauses (b), (c) and (d) of s 10(1) of the ID act can have jurisdiction upon any matter appearing to be connected with or relevant to the dispute, such matter must be specifically referred to such authorities. These words do not have the same meaning as the words incidental thereto occurring in s 10(4). Unlike the matters incidental to the dispute, the matters appearing to be connected with or relevant to the dispute must be specifically referred to the authorities. For the purposes of reference under clause (c) and (d) of s 10(1) of the ID act, it is sufficient if it appears to the government that the matter connected with or relevant to the dispute to any matter specified in second or third schedule <sup>[14]</sup>.



## CONCLUSION:

Industrial tribunal forms an integral part of Industrial dispute redressal mechanism by adjudicatory process. As with all tribunals the Industrial Tribunal as formed under S 7A of the Industrial Disputes Act, 1947 have some obvious flaws like slow pace of adjudication etc. however from the quasi judicial perspective the Industrial tribunal is one of the most successful tribunal after the Income Tax appellate tribunals.

Although the legislature by its incessant amendments have tried to define exactly the jurisdiction but the courts keeping in mind the social nature of the act have always interpreted the jurisdiction clause in such a manner so as to include most of the industrial disputes within the ambit of the act. Thus today a matter belonging not only to third schedule can be referred but also a matter from the second schedule can be sent for adjudication in the tribunal.

Thus not only disputes relating to wages, compensatory and other allowances, hours of work, bonus, profit sharing, provident fund and gratuity, working otherwise than in accordance with standing orders, classification by grades, rules of discipline, Retrenchment of workmen and closure of establishment; etc are within the ambit of tribunal but also matters relating to the propriety or legality of an order passed by an employer under the standing orders, the application and interpretation of standing order, discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen wrongfully, withdrawal of any customary concession or privilege, illegality or otherwise of a strike or lock-out can be determined upon or adjudicated however the most important import to the jurisdiction from second schedule is the residuary clause thereby giving industrial tribunal virtually the authority to adjudge any industrial dispute.

## REFERENCES:

- [1]. *Statute Constitution of India Industrial Disputes Act, 1947*
- [2]. *Law Commission Reports, Report of the National Commission to Review the Working of the Constitution*
- [3]. Basu, D.D., 'Commentary on the Constitution of India', Kamal Law House, Kolkata.
- [4]. Seervai, H.M., 'Constitutional Law of India', 2006, Universal.
- [5]. Singh, GP, 'Principles of Statutory Interpretation', Wadhwa, Nagpur.
- [6]. Malhotra, OP, 'Industrial Disputes Act', LexiNexis, 2005, New Delhi .
- [7]. <http://indiacode.nic.in/coiweb/amend/amend7.htm> visited on 12/6/07.
- [8]. [www.sarkaritel.com/states/governors\\_state.htm](http://www.sarkaritel.com/states/governors_state.htm) visited on 19/6/07.
- [9]. [www.hinduonnet.com/fline/fl1813/18131070.htm](http://www.hinduonnet.com/fline/fl1813/18131070.htm) visited on 10/6/07.
- [10]. *Encyclopædia Britannica 2006 Ultimate Reference Suite DVD.*



[11]. *Life Insurance Corporation of India v All India Insurance Employees' Association* 1989 Lab IC 1493 Bom.

[12]. *Minerva Mills Ltd v Workers of the Minerva Mills* (1954) 1 LLJ 119 (SC).

[13]. *Gowri Silk Mills Ltd v Its workers* (1956) 1 LLJ 49 (LAT).

[14]. *Sindhu Resettlement Ltd v Industrial Tribunal* (1965) 2 LLJ 268 (Guj) (DB).