

Q No. 2 Describe the main provisions of Industrial Disputes Act 1947?

Ans.

The objective of the Industrial Disputes Act 1947 is to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of industrial disputes by negotiations.

The object of the Act is to make provisions for investigation and settlement of industrial disputes. However, it makes other provisions in respect of lay off, closure, retrenchment etc. The purpose is to bring the conflicts between employer and employees to an achieving exactly opposite. The Act provides machinery for settlement of disputes, if dispute cannot be solved through collective bargaining.

"Industry means any business, trade, undertaking, manufacture or calling of employers and includes any calling service, employment, handicraft or industrial occupation or avocation of workmen.

'Industry dispute' and 'workmen' - The provisions of industrial dispute as follows—

(a.) Industrial dispute → Industrial dispute means any dispute or difference between employers and employees, or workmen and workmen which is connected with the employment or non-employment or the terms and conditions of labour of any person. Section 2(K)... Section 2(A) provides that dismissal, discharge or even a single workman will be 'industrial dispute' even if no workman or any union is a party to the dispute.

(b.) Settlement → Settlement means a settlement arrived at in the course of conciliation proceedings. It includes a written arrangement between employer and workmen arrived at otherwise than in course of conciliation proceedings.

(2.)

(c.) Workman → 'Workman' means any person (including apprentice) employed in any industry to do any manual, clerical or supervisory work for hire or reward. It includes dismissed, discharged or retrenched person also.

(d.) Retrenchment → 'Retrenchment' means termination by the employer of service of a workman for any reason, other than as a punishment inflicted by disciplinary action.

'Retrenchment' means discharge of surplus labour or staff by employer. It is not by way of punishment.'

(e.) Lock-out → 'Lock-out' means temporary closing of a place of employment or the suspension of work or the refusal by an employer to continue to employ any number of persons employed by him. Section 2(i) - workers go on strike, while 'lock-out' is to be declared by employer.

(f.) Strike → 'Strike' means a cessation of work by a body of persons employed in any industry, acting in combination, or a concerted refusal. Wages during 'strike' period are payable only if the strike is both legal and justified - 'Syndicate Bank' v. K. Umesh Nalk (1994) 5, SSC, 572 = 1992 AIR SCW 4436 = 1994 11 LLJ 836 = 1994 11 LLN 1296 = (1994) followed in HMT Ltd. v. HMT head office employees Assn 1997, employers is legal and justified workmen are not entitled to payment of wages for the period during which the lock-out continued.

(g) Lay-off → 'Lay-off' retrenchment and closure -

'Lay-off' means failure, refusal or inability of employer on account of shortage of coal, power or raw materials or accumulation of stock or break-down of machinery or natural calamity, to give employment to a workman on muster roll...

'Lay-off' means not giving employment within two (2) hours after reporting to work.

(h) Closure → 'closure' means permanent closing down of a place of employment or part thereof... Section 2 (cc) ... This closure can be a part of establishment also... 60 days notice should be given for closure to government.

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Q No 2. → How is the bonus regulated under the Payment of Bonus Act 1965?

Ans.

The Payment of Bonus Act, 1965 aims to regulate the amount of bonus paid to the persons employed in certain establishment based on their profit and productivity.

The Payment of Bonus Act provides for payment of bonus to persons employed in certain establishment on the basis of profits or on the basis of production or productivity and for matters connected therewith. Every employee receiving salary or wages upto Rs.

The payment of Bonus Act 1965 the minimum bonus of 8.33% is payable by every industry and establishment under Section 10 of the Act. The maximum bonus including productivity linked bonus that can be paid in any accounting year shall not exceed 20% of the salary/wages of an employee under the Section 31A of the Act.

The payment of bonus Act 1965 is the principal Act for the payment of bonus to the employees which was formed with an objective for rewarding employees for their good work for the organisation. It is a step forward to share the prosperity of the establishment reflected by the profit earned by the contributions made by capital, management and labour with the employees.

* Objectives.

- (a) To improve statutory liability to pay bonus (reward for good work) in case of profit or losses.
- (b) To prescribe formula for calculating bonus.
- (c) To prescribe minimum & maximum percentage bonus.
- (d) To provide a set of set on mechanism.
- (e) To provide redressal mechanism.

* Regulation of Bonus Act 1965 —

The act provides for the annual payment of bonus to employees to certain establishments (including factories and establishments employing 20 or more persons). Under the Act, bonus is calculated on the basis of employee's salary and profits of the establishment. These are the following regulation of bonus Act 1965 —

(5.)

(A.) Employees eligible for bonus → The Act mandates payment of bonus to employee's whose salary or wage is upto Rs. 10,000 per month. The bill seeks to increase this eligibility limit to Rs. 21,000 per month.

(B.) Calculation of bonus → The act provides that the bonus payable to an employee will be in proportion to his or her salary or wage. However, if an employee's salary is more than Rs. 5500 per month, for the purpose of calculation of bonus, the salary will be assumed to Rs 5500 per month. The bill seeks to raise this calculation ceiling to Rs. 7000 per month or the minimum wage notified for the employment.

(C.) Prior publication of Rules: — The Act provides that the central government may ~~make~~ ^{make} rules to implement its provisions. The bill seeks to mandate prior publication of such rules in the official gazette to allow for ^{more} public consultation.