

INDUSTRIAL DISPUTES AND THE PROCESS OF SETTLEMENT: A STUDY IN THE TEA PLANTATION SECTOR OF ASSAM.

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Abstract: Industrial dispute in an industry is a common phenomenon. The tea industry of India as a whole and that of Assam in particular is not exception to it. Industrial dispute in the tea plantation sector of India was started as early as 1848. Since then there has been a long history of industrial disputes in the tea industry of India both in colonial and post colonial period. The paper aims to discuss the methods of settlement of industrial disputes in the tea plantation sector of Assam in the post independence period. The paper studies a number of industrial disputes taken place in Assam during the post colonial period and method of conciliation to settle those by various authorities. The paper tries to focus on the role of the trade unions, management of tea gardens and the state government of Assam in the process of dispute settlement. The paper also aims to establish the importance of smooth and effective conciliation and early settlement of disputes in a labour intensive industry like the tea industry of Assam.

Key Words: Labour Movement, Trade Unions, Industrial Disputes, Conciliation, Tea Plantation Sector.

1:01: Introduction:

Industrial dispute in an industry is a common phenomenon. The tea industry of India as a whole and that of Assam in particular is not exception to it. The industrial Dispute Act, 1947, says that the following elements should exist to constitute an industrial dispute:

1. A dispute or difference between (a) employers and employees, or (b) employers and workmen, or (c) workmen and workmen;
2. The dispute or difference should be connected with (a) employment or non-employment, or (b) terms of employment or (c) conditions of labour of any person;
3. The dispute may be in relation to any workmen or workmen or any other person in whom they are interested as a body.

Tata Chemicals vs. workmen, Tata chemicals, AIR 1978, SC, 828 added, "Industrial dispute is not restricted to dispute between employer and recognized majority union. It also means a difference between employer and workmen including a minority union." There may evolve lots of technical terminology of industrial dispute; however the paper aims to focus on dispute between the employer and the employees specifically labourers of this sector.

Conciliation is a process of investigation and settlement of the industrial disputes by competent authority. The industrial Dispute Act 1947 has created various authorities to settle down industrial disputes. The Act prescribes three modes of settlement of Industrial disputes, viz., 1. Conciliation 2. Adjudication 3. Arbitration.

In the process of conciliation the following authorities are generally prescribed to be involved:

- 1) Work Committee: The work committee is to be consisting of representatives of employers and workmen engaged in the establishment.
- 2) Conciliation Officer: Conciliation officers are to be appointed by the government to mediate and settle industrial disputes.
- 3) Board of Conciliation: Section 5 of the Act provides that the government may constitute a Board of Conciliation with a chairman and two or four other members to thrash out differences between the parties and to settle disputes.

This paper focuses mainly on the conciliation mode of dispute settlement.

1:02: The system of conciliation in the plantation sector of Assam:

The system and procedure of conciliation in the tea plantations of Assam has been fixed in accordance with the Industrial Dispute Act, 1947, Plantation Labour Act, 1951, the Assam Plantations Labour Rules, 1956. The Acts and the Rules thereon provides the conciliation procedure of an industrial dispute in Assam, as follows,

In case of any industrial dispute the state government may by order in writing refer the dispute to a Board, or a Court of inquiry or Labour Court or Tribunal.(vide sec 10, chapter III of the Industrial Dispute Act, 1947(hereafter mentioned as ID Act,1947)). The frame and duties of these conciliation authorities have been clearly defined in the ID Act, 1947. Accordingly, the state government in the initial stage of and industrial dispute in the tea plantation sector may appoint ‘conciliation officers’ to mediate the dispute. The government by notification in the official Gazette appoints such number of persons as it thinks fit to be conciliation officers. His duty is to mediate in and promote the settlement of industrial disputes. (Sec. 4, Chapter II, I D Act, 1947).

In case the state government finds a particular dispute complex, it may form Board of Conciliation for promoting the settlement of an industrial dispute. A Board consists of a chairman and two or four other members are the persons appointed in equal numbers to represent the parties to the dispute. When a dispute has been referred to a Board, it shall endeavour to bring about a settlement.

Further the state government may constitute a Court of Enquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute. A court may consist of one independent person and where a court consists of two or more members, one is appointed as the chairman. The Court is to inquire the matter and report the government within six months. (Sec.6, Chapter II, I D Act, 1947).

In case adjudication required for a particular industrial dispute, the state government by notifications in the official Gazette may constitute one or more Labour Courts. A labour court is consisted of one person and is appointed by the state government. The presiding officer of the Court must fulfill the qualifications as mentioned in the section 7, Chapter II, ID Act, 1947.

If an industrial dispute needs further adjudication beyond the level mentioned above, the state government may constitute one or more Industrial tribunals in this regard. If higher level of adjudication required, then the central government may constitute one or more National Industrial Tribunals. Labour Court, tribunal or national tribunal are expected to hold its proceedings expeditiously.

Thus the ID Act, 1947, and the Assam Industrial Dispute Rules, 1958 clearly mentions the appropriate authorities, procedure, powers and duties of the authorities in order to settle industrial disputes. In case of the tea plantation sector of Assam, in the garden level, the labourers can raise their demands either individually or through the trade unions to the management. The management and the garden unit of the trade union may settle the issues bilaterally in a discussion. If the issues are not resolved bilaterally then the disputed parties may refer to government conciliation. The Assistant Labour Commissioner and district labour officers may arrange for tripartite conciliations. If the issues are not resolved even this level, it can be referred to the higher authorities.

1:03: The History of Industrial Disputes and Conciliation Machinery of Tea Industry of Assam:

The industrial dispute in the tea plantations started as early as 1848. In that year, the labourers of the Assam tea Company, Nazira went on strike as a reaction to the delay of payment of wages.¹ It is only after 1884 that, there developed a general tendency of resistance among the tea garden labourers. This is evident from the available official statistics on disputes for the years 1884-93. These were in forms ‘varying from absconding and occasional litigation to strikes and violent mass attacks on the planters.’² In 1899, the then Chief Commissioner of Assam, Henry Cotton, reported that, ‘there is a growing tendency in the Coolie class to resent a blow by striking a blow in return...’³ It is evident that the non-cooperation movement had deep influence over the tea plantation labourers of both the valleys of Assam. The oppressed labour class looked forward to the Congress for support to their cause, although their approach was not always non-violent.⁴ Their demands were primarily economic or related to living or working condition. They raised issues like low wages, excessive work load, inadequate facilities of leave, high prices of food and clothes. There were many cases, when labourers often tried to flee away from the garden campuses to get relief from oppression. In some cases, the labourers were suspected

of helping the Congress volunteers and the planters withheld wage payments to such suspected labourers. The labourers even had to fight against such allegations.⁵

The labour resistance in the form of strikes in tea gardens of Assam came into prominence in 1926-1927.⁶ The Trade Union Act of 1926 helped the industrial labourers to organize themselves in a systematic way.⁷ The Second World War brought about a set back to the labour movement in Assam. However after 1945, there was an upsurge in the labour movement in India in virtually all sectors of industry. The period from 1945 to 1947, witnessed the biggest explosion of strikes and union activity in the country's history.⁸ By November, 1947, trade unions were formed by the INTUC in about 200 tea gardens and the spade work was extended in many more.⁹ Thus by the time India achieved her independence, the labour movement in the tea plantation sector of Assam took a solid shape. Since Independence, industrial relations in India has witnessed a close link of labour movement with political parties, ideological conflicts and splits, dominance of outsiders over the movement, State intervention and tripartite consultations.¹⁰

However during the colonial period the dispute settlement procedure was not guided by any human resource management policy. The planters adopted the policy of domination and punishment in order to settle down the disputes. The Trade Union Act, 1926 paved the way for trade union formation and settlement through discussion. But during the colonial period, the labourers were regarded as bonded labour with no rights. Punishment had been the only way of dispute settlement. The ignorant labourers could raise no voice against the powerful proprietor class. At least till the First World War, the labourers were not organized under unions to bargain. Therefore labourers often protested in a violent way rather than a peaceful bilateral conciliation. The planters taking the chance of this violence imposed law and order measures and subdued their voice. It was the 'master- slave' relation that prevented the favourable labour friendly settlement of industrial disputes.

1.04: Objectives of the study:

The paper aims to analyse the process of conciliation of the industrial disputes of the tea plantation sector of Assam in post independence period. To this aim 176 (one hundred seventy six) industrial disputes that had been occurred during 1960 to 2000AD in Sibsagar district of Assam, are taken up for analyses. The paper aims in depth study of industrial disputes and the process of conciliation or settlement in order to find out the strengths and weaknesses of the dispute settlement process of the post independence tea industry of Assam.

1.05: Methodology:

The historical method of inquiry has been adopted for the study. Primary and secondary sources have been used. Secondary works and archival material have been supplemented by extensive field work.

2.00: Analysis of the disputes and methods of settlement:

There are ninety three ¹¹Tea Estates in the Sibsagar (present geographical boundary) district of Assam. As on August 2008, the total tea labour population of the district was 85,698, ¹². According to the source there is no child labour employed in the sector of the district (here artisans, clerical, medical and supervisory staffs are not calculated). The total registered area under tea cultivation was 36,918.29 hectare, while the total area under actual cultivation was 19,930.82 hectares. ¹³ The total resident labour population of the tea plantation sector of the district, in 2008, was 1, 70,205 and the number of families of resident workers were 31,321. ¹⁴ The task of surveying all the ninety three Tea Estates of the district is indeed immense. Therefore, taking into consideration the fact that most of the problems and mode of protest of the labourers of almost all the tea states are more or less the same, thirty one Tea Estates have been selected at random for the Study. These Tea States have 11,285 permanent residential families.¹⁵ Thus the Study represents thirty six percent of the total permanent residential labour families. ¹⁶ Moreover, these tea estates have been selected in such a way that they represent every corner of the district.

Prior to 1960, there are few records of labour struggle in the garden Unit level in Sibsagar district. In the Sixteenth Session of the Indian Labour Convention (1958), it was decided to recognize only one Labour Union in each industry. A Guideline was also prepared there to maintain industrial peace and discipline. ¹⁷In 1958, the *Assam Chah Mazdoor Sangha* (ACMS) was established and it was recognized as the authorized Trade Union of the Tea Plantation Industry of Assam. It was only after this that a systematic approach to deal with the labour problems began in the Tea Plantation Industry of Assam.

Statement of the methods of settlement:

Total number of disputes analysed	Number of disputes of which information of settlement is not available	Number of disputes settled through bilateral conciliation	Number of disputes settled through tripartite conciliation	Total number of disputes referred to court	Number of successful conciliation
167	43	44	52	10	96

Table 1

Time required for settlement of disputes:

Number of disputes settled within one month	Number of disputes settled within 31-60 days	Number of disputes settled within two to six months	Number of disputes those required one year or more
51	07	24	14

Table 2

From the above statistics it is clear that 77.4 percent of the disputes had been solved through formal conciliation. However, only 35 percent of the disputes were solved amicably through bilateral discussion between the labourers and the management. Majority of the disputes (42%) had been referred to the government conciliation and successfully settled. 8 percent of the disputes were referred to the Labour court for adjudication. 15 percent of the disputes could not be settle down even after conciliation and further initiative.

The less number of bilateral agreements reveals the weakness on the part of trade union leaders and gross negligence of the management. The management in many cases does not want to settle the disputes amicably through fruitful discussion with the trade unions or the workers at garden level.

However the government conciliation authorities intervened well to the industrial sector and settled 42 percent of the disputes. But irony is that only 53 percent of the disputes could successfully settle within one month of time. 25 percent of the disputes required two to six months of time to be settled. 15 percent of the disputes had been settled after the long process of one year or more.

To remain in dispute for a long time is very harmful both for the proprietor class and the labourers. It affects the industry adversely. Due to the failure of quick conciliation and subsequent long dispute period as reflected in the concerned disputes, have been the cause of huge loss in wage and production. It causes heavy discontentment between the parties which also has the adverse impact on the industrial relation.

2.02: The Role of Government Conciliation Machinery:

From the above discussion it has been observed that out of total 96 successful conciliations, the state government intervened successfully in 52 disputes. Only 10 disputes have been referred to labour court. From these statistics the role of the government machinery seems to be efficient and satisfactory. The district labour officials intervened into the disputes promptly. But if we notice the duration of disputes, the government conciliation machinery exhibits nothing but severe weakness. The table shows that 24 disputes needed two to six months of time to be settle down and surprisingly 14 disputes needed one and more years of time for settlement and one needed near about five years of time.

In theory the tea plantation labourers have been enjoying many welfare facilities, but in practice, studies reveal that they are deprived of most of them.¹⁸ The scenario is thus that, on one side there is the profit making management and inactive trade unions, selfish labour leaders and on the other side the powerless and oppressed workers. Moreover according to a senior tea manager, 'the government's inspectors, who are supposed to monitor the implementation of the Plantation Labour Act, are content getting their share of kickbacks from unscrupulous managements. As long as their pockets are lined, these inspectors do not bother about the welfare of the workers. If they were stricter, many tea companies would not get away by paying their workers poorly.'¹⁹

To overcome such a situation the government of Assam should look at the labour problem beyond its political self. It should also consider the long standing demand of the planters to share the responsibility of tea labour welfare.

2.03: The attitude of the management in respect of dispute settlement:

During our period of study it has been observed that the management of the tea estates of Assam appears to be insincere in its efforts to solve the labour problems. In fact, on many occasions they were indifferent towards the demands of the labourers, and kept the issues pending for a long time. Very often, the Management used to make various agreements with the labourers, but rarely implemented them. As a result, the labourers had to fight again for the implementation of the agreements.²⁰ It is noteworthy that there were two major strikes in the tea plantation sector of Sibsagar district, in protest against the non- implementation of various earlier Agreements, that had been signed between the labourers and the Management.²¹

Application of human resource management principles in labour management for motivation of the workers have not been seriously attempted in the tea industry.²² To make a strike successful was very arduous for the labourers and many occasions, they failed. At such times, the management, not only cut the wages of the striking workers but also took retaliatory measures to curb future uprisings. This policy has hampered cordial industrial relations. It is essential for both parties should be co-operative and rational in their approach.

The Management has qualified lawyers to confront ignorant and illiterate workers. Dismissal is the only punishment prescribed under the Standing Orders which is sometimes converted to simple dismissal discharge as a show of leniency. The whole law needs drastic change to confer to the workers adequate job security against whimsical and vindictive actions of employers. Through a series of case laws, the Supreme Court has established a right to elementary justice for labour and has provided safeguard for him against vindictive action, but of late there has again a tendency to revert to master and servant concept and right of discharge under terms of contract. As such, it is strongly felt that the law of disciplinary action as evolved by the Supreme Court should be codified and the model Standing Orders should be drastically amended in order that workers have adequate job security and he is freed from double jeopardy in cases where criminal offences are involved or attracted. The concept of social justice needs codification as far as possible.

Thus, the attitude of the government and the officials of the labour department and the management of most of the tea gardens in this regard, were also not up to satisfaction. In theory the tea plantation labourers have been enjoying many welfare facilities, but in practice, studies reveal that they are deprived of most of them.²³ The scenario is thus that, on one side there is the profit making management and inactive trade unions, selfish labour leaders and on the other side the powerless and oppressed workers. Moreover according to a senior tea manager, 'the government's inspectors, who are supposed to monitor the implementation of the Plantation Labour Act, are content getting their share of kickbacks from unscrupulous managements. As long as their pockets are lined, these inspectors do not bother about the welfare of the workers. If they were stricter, many tea companies would not get away by paying their workers poorly.'²⁴

2.04: Role of the trade unions in the bargain process:

During the initial days of trade unionism after Independence, when most of the labourers were uneducated, the outsiders took the leadership of trade unions and participated in the conciliation process which was complex and loaded with lots of paper works. But in most of the cases even now, many leaders of trade unions of gardens and even in higher level are not efficient enough for conciliation and bilateral and tripartite agreement. In such cases, they have been easily convinced for a compromise.

The garden units of a trade union are the real basis. But it has been observed that in many tea gardens, ACMS garden units have been run by same President and Secretary year after year, practically doing nothing for the labourers. They are indifferent to the creation of labour awareness and fascist in their way of working. Such behavior of union leaders causes mistrust among the members and weakens the union. So the garden units of the trade unions must be strong, democratic and its grass root level leaders must be easily accessible to their fellow members. The trade unions should be guardian of the ignorant labourers not simply a platform of self seekers to propel their political career. E.A Ramaswamy, opines that the future of trade unionism depends on its ability to forge a new strategy that blends cooperation with conflict. The experience of the Nordic countries and Germany proves it to be a right strategy. So long as they remember where and when to conflict, the trade unions will remain relevant and be unable to stem the depletion of membership and serve a much needed social purpose.²⁵

3.01: Concluding observations and recommendations:

In the process of conciliation and dispute settlement, the role of the state is the prime. Although, since the implementation of the Plantation Labour Act 1951 and I.D Act 1947, the state machinery has actively participating in the dispute settlement in the tea plantation industry of Assam. But the main emphasis of the state should be on the quick settlement of disputes then only a healthy industrial environment would persist in the industry and overall development would take place. Moreover, the government should monitor the mechanism well to bring it out from the allegation of joint nexus with the management of tea gardens. Corruption on the part of the government official may hinder the process of conciliation and healthy industrial relation.

In the teeth of globalization, when capitalist class are not ready to shoulder the burden of the welfare of the labourers, the role of the state as the savior of the labour welfare is very important. The state has already shouldered the burden of primary education of the labour community. The Plantation Labour act, 1951, which came into force on 1 April, 1954, to provide for welfare of labour and to regulate the conditions of work in plantations, in its section no 14 of chapter IV, clearly mentioned that if the number of children in a garden of age group from six to twelve of workers exceeds twenty five, the concerned employer was to provide educational facilities for the children. On the basis of it, the Assam plantations Labour Rules, 1956, vide provision no 52 instructed the employers to provide and maintain a primary school/schools for imparting primary education to the children. Accordingly, in 1968, the government of Assam took over the management of primary schools in some of the districts establishing education as state responsibility.

The major share of a successful conciliation always goes to the trade unions. The trade unions should always try to settle disputes in the bilateral level of discussion with the management. But for it the trade union leaders must be efficient enough with good amount of knowledge of legal and technical information so that they can bargain with the management upper handedly. They should also know when to compromise and settle the dispute. Failure in bilateral level of discussion or long conciliation procedure may hamper the labourers themselves. The trade unions also have the responsibility to make the common labourers aware about their rights and duties.

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