

e- content for PMIR semester-II/Paper code-VI (CC-6)

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Unfair Labour Practices

Actions taken by management towards union or by unions towards management in an industry, are called industrial labour practices or labour practices. They may be of two types called: (a) fair labour practices and (b) unfair labour practices. Fair labour practices are those which are fair in the eyes of law, in line with ethics and values, socially and culturally acceptable and in the interest of labour and management.

Unfair labour practices, on the other hand, are those which are neither in the interest of the labour nor in the interest of management nor legally tenable. Fair labour practices, therefore, are of vital importance for the growth of the industry, industrial peace and mutual co-existence.

The idea of curbing or controlling unfair labour practices in India was first noticed in 1947 when a bill called Trade Unions (Amendment) Bill was placed in Constituent Assembly. Unfortunately, this Bill could not see the light of the sun. Then an attempt was made to enumerate unfair labour practices under the Code of Discipline in industry in 1958. Lastly, the unfair labour practices have now been prescribed under the Industrial Disputes Act, 1947 which is presently in operation.

Practices which are in accordance with labour laws, codes, standing orders or administrative orders are normally called as fair labour practices irrespective of the fact whether they are performed by employers or trade unions. Practices which are against the spirit of these instruments are unfair labour practices. Section 25T of Industrial Disputes Act, 1947 prohibits unfair labour practices by employer or a workman or a trade union. The Act states “NO” employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 or not, shall commit any unfair labour practice”.

The Fifth Schedule to the Industrial Disputes Act, 1947 provides a list as to what constitutes an ‘unfair labour practice’. In this regard one finds the following provisions :

I. On the Part of Employers and Trade Unions of Employers

1. To interfere with, restrain from, or coerce, workmen in the exercise of their right to organise, form, join or assist a trade union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say -

(a) threatening workmen with discharge or dismissal, if they join a trade union;

(b) threatening a lock-out or closure, if a trade union is organised;

(c) granting wage increase to workmen at crucial periods of trade union organisation, with a view to undermining the efforts of the trade union at organisation.

2. To dominate, interfere with or contribute support, financial or otherwise, to any trade union, that is to say,

(a) an employer taking an active interest in organising a trade union of his workmen; and

(b) an employer showing partiality or granting favour to one of several trade unions attempting to organise his workmen or to its members, where such a trade union is not a recognised trade union.

3. To establish employer sponsored trade unions of workmen.

4. To encourage or discourage membership in any trade union by discriminating against any workman, that is to say:

(a) discharging or punishing a workman, because he urged other workmen to join or organise a trade union;

(b) discharging or dismissing a workman for taking part in any strike (not being a strike which is deemed to be illegal strike under this Act);

(c) changing seniority rating or workmen because of trade union activities;

(d) refusing to promote workmen of higher posts on account of their trade union activities;

(e) giving unmerited promotions to certain workmen with a view to creating discord amongst other workmen, or to undermine the strength of their trade union;

(f) discharging office-bearers or active members of the trade union on account of their trade union activities.

5. To discharge or dismiss workmen –

- (a) by way of victimisation;
- (b) not in good faith, but in the colourable exercise of the employer's rights;
- (c) by falsely implicating a workman in a criminal case on false evidence or on concocted evidence;
- (d) for patently false reasons;
- (e) on untrue or trumped up allegations of absence without leave;
- (f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;
- (g) for misconduct of a minor technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.

6. To abolish the work of a regular nature being done by workmen, and to give such work to contractors as a re of breaking a strike.
7. To transfer a workman malafide from one place to another, under the guise of following management policy.
8. To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a precondition to allowing them to resume work.
9. To show favouritism or partiality to one set of workers regardless of merit.
10. To employ workmen as '*badlis*', casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.
11. To discharge or discriminate against any workman for filing charges or testifying against an employer in enquiry or proceeding relating to any industrial dispute.
12. To recruit workman during a strike which is not an illegal strike.
13. Failure to implement award, settlement or agreement.
14. To indulge in acts of force or violence.
15. To refuse to bargain collectively, in good faith with the recognised trade unions.
16. Proposing or continuing a lock-out deemed to be illegal under this Act.

II. On the Part of Workmen and Trade Unions of Workmen

1. To advise or actively support or instigate any strike deemed to be illegal under this Act.
2. To coerce workmen in the exercise of their right to self-organisation or to join a trade union or refrain from, joining any trade union, that is to say -
 - a) for a trade union or its members to picketing in such a manner that non-striking workmen are physically debarred from entering the work places;
 - b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or against managerial staff.
3. For a recognised union to refuse to bargain collectively in good faith with the employer.
4. To indulge in coercive activities against certification of a bargaining representative.
5. To stage, encourage or instigate such forms of coercive actions as willful 'go-slow', squatting on the work premises after working hours or "gherao" of any of the members of the managerial or other staff.
6. To stage demonstrations at the residence of the employers or the managerial staff members.
7. To incite or indulge in willful damage to employer's property connected with the industry.
8. To indulge in acts of force or violence or to hold out threats of intimidation against any workman with a view to prevent him from attending work.