



## Industrial Revolution of India and Its Philosophy and Constitutional Validity

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**Abstract :** *Industrial jurisprudence is a developing concept that focuses on social justice and legal justice. It is a species of the same genus jurisprudence, and its application is limited in certain respects. The introduction of factory systems led to increased labor population and the migration of village workers to industrial towns. This change in status from craftsman to wage-earner resulted in craftsmen migrating to industrial cities. The concepts of "Industrial Peace" and "Industrial Harmony" have different meanings. Industrial peace emphasizes the absence of strife and struggle, while industrial harmony promotes understanding, cooperation, and partnership between employers and employees. Both concepts are essential for economic progress and contribute to healthy industrial relations, which are vital for the community as a whole.*

**Keywords:** *Constitutional Rights, Labour Rights, Industrial Revolution, Labour Jurisprudence, Social Justice*

### Introduction

In spite of its widening scope it cannot be forgotten that its application is limited in certain respects. For example, there are still a vast majority of the people who in their relationship are still governed by the ordinary law of contract based on laissez faire doctrine. Industrial jurisprudence is a developing concept. It derives its main strength from social justice which is dynamic and changing. The concept of social justice itself changes with the social, economic and political changes in society. Therefore, it has yet to take its final shape. Industrial jurisprudence cannot, with all its high ideals, displace general jurisprudence just as no amount of social justice can abrogate altogether the concept of legal justice.

Even while dispensing social justice the Courts, tribunals and arbitrators, whoever it may be, cannot ignore the law. Therefore, it would be correct to say that industrial jurisprudence is a species of the same genus jurisprudence<sup>4</sup> and industrial jurisprudence in relation to industrial society stands in the same way just as general jurisprudence in relation to the total society.<sup>1</sup>

### Labour Policy in India

After independence it was largely felt that the labour policy must emphasise upon self-reliance on the part of the workers. Since independence till 1954, the period when V.V. Giri was the Labour Minister, all official pronouncements emphasised that labour should become self-reliant. An equally forceful view had

<sup>1</sup> Samant, Industrial Jurisprudence, p. 4.



been to prefer reliance upon the Government. This cross-current of approach to the labour policy gave place to a new approach known as "Tripartism". Thus 'Tripartism' became the central theme in the so-called "Nanda-period" that began in 1957. During this period the Government paid reliance on three party approach, namely the trade union representing the workers, the employers, and the Government. In this kind of approach the representatives do not decide anything but their role is mainly advisory. They meet together, discuss the points in dispute and strive to reach a consensus and if they agree they make recommendations, Out of the three, the role of the Government is more important. Annual Labour Conferences and the permanent standing Labour Committees served as the chief instrument of Tripartism. These conferences advocated, amongst many things; workers' participation in management, workers' education, works committees, and minimum wage legislations. At the sixteenth conference held in 1958 a momentous advancement was made by adopting a Code of Discipline in industry. The Code pledged the parties to avoid strikes and lock-outs without notice, and to eschew unilateral actions, and to rely on settlement of disputes by discussion by voluntary arbitration or by adopting to such measures as the law may provide. It also pledged them to avoid coercion and victimisation, to avoid partial strikes and lock-outs, and to follow grievance procedure.

Tripartism is an approach which lays stress on the identity of interests

between labour and capital i.e., they are the partners in the maintenance of, production and the building up of the national economy. The labour policy has proceeded on a realisation that the community as a whole, as well as individual employers are under an obligation to protect the welfare of workers and to secure to them their due share in the gains of economic development.<sup>2</sup> This led to enacting of the Payment of Bonus Act, 1965 which aimed at providing for the payment of bonus on the basis of profits or on the basis of production or productivity.<sup>3</sup>

The main postulates of labour policy may be summed up as follows.<sup>4</sup>

(1) Recognition of the State as the custodian of the interests of the community, as the catalyst of "change" and welfare programmes.

(2) Recognition of the right of workers to peaceful direct action if justice is denied to them.

(3) Encouragement to mutual settlement, collective bargaining and voluntary arbitration.

(4) Intervention by the State in favour of the weaker party to ensure fair treatment to all concerned.

(5) Primacy to maintenance of industrial peace.

(6) Evolving partnership between the employer and employees in a constructive endeavour to promote the satisfaction of the economic needs of the community in the best possible manner.

(7) Ensuring fair wage standards and provisions of social security.

(8) Co-operation for augmenting 'production' and increasing 'productivity'.

<sup>2</sup> See Fourth Five Year Plan—Draft Outline (1966), p. 386.

<sup>3</sup> In view of amendment of the Act in Dec. 1977 payment of bonus is mere based on

profits, production or productivity. (See section 10 of the Bonus Act).

<sup>4</sup> Report of the National Commission on Labour, 1969, pp. 29, 30.



- (9) Adequate enforcement of legislation.
- (10) Enhancing the status of the worker in industry.

(11) Tripartite consultation.

### **Industrial Revolution of India**

As a consequence of the introduction of factory system production became concentrated in a few selected places, resulting in the increase of labour population at all such places. The village workers migrated to the industrial towns because of the difficulty of finding adequate livelihood in their native place. This resulted in disappearance of the popular village handicraft system because they could not compete with machine made goods. The goods produced on a mass scale with the help of machines in the industries were cheaper than the goods produced by handicraft method. But the development of industry in India brought with it a great evil inasmuch as it changed the status of a craftsman into wage-earner. Therefore, the craftsmen had to migrate from village to industrial cities in search of employment in factories.

### **Economic Evils**

- (1) The artisan who in the handicraft system had the psychological satisfaction of producing the goods himself became in the factory system only a tender of the machine. He had to produce the goods with the help of tools and raw materials supplied by his employer and in the workshop of the employer. In the factory system of production only a part of goods were produced by a certain category of workers. Different categories of workers produced different parts of the same goods. Thus, the goods came in the final shape by the composite labour of many categories

of workers. The workman in this system, did not get full psychological satisfaction of manufacturing a product by himself and this indirectly arrested his mental development and creative talents.<sup>5</sup>

### **Industrial Peace and Industrial Harmony**

"Industrial Peace" and 'Industrial Harmony" may have the same meaning but the concept of industrial peace is somewhat negative and restrictive. It emphasises absence of strife and struggle. The concept of industrial harmony is positive and comprehensive and it postulates the existence of understanding, co-operation and a sense of partnership between the employers and employees. A quest for industrial harmony is indispensable for economic progress of the country. Economic progress is bound up with both industrial harmony and industrial peace. Industrial harmony leads to more co-operation between employees and employers which results in more productivity. It is founded on healthy industrial relations. Healthy industrial relations cannot, therefore, be regarded as a matter in which only the employers and employees are concerned; it is of vital significance to the community as a whole. Therefore, industrial harmony involves the co-operation of employees and the community at large.

### **Industrial Relations**

An industry is a social world in miniature. Industries help in production and provide employment to the people of society. Different categories of human elements are involved in an industry. The relations of these groups inter se constitute the subject matter of industrial law. Industrial relations play a vital part

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<sup>5</sup> V.V. Giri, Labour Problems in Indian Industry, p. 115.



in the establishment and maintenance of industrial democracy. The economic activity is the central field of industrial relations. The economic system of any nation affects the industrial relations, which in turn affects the social order. A man has to struggle with his environment for earning his bread and satisfaction of his material wants. Industrial revolutions are nothing more than the struggle of men for their material satisfaction. The industrial revolutions create an imbalance in the society as they prejudicially affect the rights and interests of those sections who work in such industries but do not control it. It results in inequitable distribution of wealth because means of production are controlled by the dominant section of the society, who exploit the labour to their own maximum benefit. It is because of these far reaching consequences of the imbalance and disorder in industrial relations and because of the fact that it affects such a large and varied complex of group relationship that it was soon realised that the very existence of the State as protector of the community and as arbitrator of conflicting interests may be jeopardised if it was not to intervene in industrial matters to maintain social morality which was necessary for a healthy social order. Economic progress is also bound up with industrial peace. Industrial relations are, therefore, not a matter between employers and employees alone, but a vital concern of the community which may be expressed in measures for the protection of its larger interest. State intervention is also justified to prevent exploitation of the weaker section of the society by the stronger section. Industry owners are not the only party to be blamed for the industrial disorder, but the State whose duty it is to establish a just social order is equally to be blamed. Social justice

requires that the State for its own existence owes an obligation to the community to bridge the gap between the two classes and evolve a healthy social order. It is from this fountain of social justice that the necessity of legal regulation of industrial relations has flown. The scope of governmental legal regulation of the industrial relations depends upon the socio-economic objective that State seeks to attain and these would be reflected in the socio-economic planning and national labour policy. It is further conditioned by the degree of the existing social imbalance which needs social re-adjustment and the conceived picture of ideals which feed the programme of social justice in the given socio-economic situation! We in our country are mainly embarking upon industrial and technological advancement. But mere technological advance will widen the social imbalance. Advancement of knowledge of social science is necessary for reshaping social relationship. Therefore, the State must endeavour to promote studies and researches sciences which will help in reshaping social relationship in accordance with the principles of social justice and socio-economic objectives.

### **Principles of Labour Legislation**

Labour legislation in any country should be based on the principles of social justice, social equity, international uniformity and national economy.

Social justice.—Social justice implies two things. First equitable distribution of profits and other benefits of industry industry owner and workers. Secondly, providing protection to the workers against harmful effects to their health, safety and morality. In the beginning, the position of a worker was that of a daily wage-earner, which means he was paid only for the days he actually worked. A



workman was expected to accept all the hazards connected with his work as incidental to his employment. Until the passing of Workmen's Compensation Act, 1923 no compensation was paid in case of an accident taking place in the course of employment. But the Workmen's Compensation Act, 1923 guarantees to workmen compensation for any injury caused by an accident arising out of and in the course of employment. The Minimum Wages Act, the Factories Act and the Payment of Wages Act are a few other legislations based on the principle of social justice. These legislations fix the hours of work, make provision for payment of overtime, leave rules, safety, health and welfare of labour in industry. Labour welfare in our country has a special significance for our Constitution provides for the promotion of welfare of people, for humane conditions of work and securing to all workers full employment of leisure and social and cultural opportunities.<sup>6</sup> The word 'social justice' is neither defined in any of the labour legislations nor does it occur in any of them except the Industrial Disputes Act, 1947.<sup>7</sup>

The concept of social justice, according to Bhagwati, J., does not emanate from the fanciful notions of any particular adjudication but must be founded on a more solid foundation.<sup>8</sup> In the opinion of Justice Gajendragadkar: "The concept of social and economic justice is a living concept of revolutionary import, it gives sustenance to the rule of law and meaning and significance to the idea of welfare State".<sup>9</sup> The Indian Constitution

enshrines the concept of social justice as one of the objectives of the State. Article 38 of the Constitution provides that "the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, social order in which justice, social, economic and political, shall inform all the institutions of the national life". Article 39 ordains that it shall be the duty of the State to apply certain principles of social justice in making laws.

Social justice is justice according to social interest. So far as the application of the doctrine of social justice in the sphere of adjudication is concerned, it is subordinate to the fundamental rights and law contained in the Constitution. Secondly, it is also subservient to the statutory Industrial law. Thirdly, social justice cannot be done in disregard of law laid down by the Supreme Court. Social justice does not mean doing everything for the welfare of labour to the utter disregard of the employer. The balance of social justice leans neither side.<sup>10</sup> The labour policy of a country should, in the national interest, prevail over the rival economic policies in cases of conflicts?

"Social justice" is designed to undo the injustice of unequal birth and opportunity, to make it possible that wealth should be distributed as equally as possible and to provide that men shall have the material things of life should be guaranteed to each man. President Roosevelt has rightly said that "there are some whose adverse circumstances made them unable to obtain the mere necessities of existence without the aid of

<sup>6</sup> V.V. Giri, Industrial Relations.

<sup>7</sup> When the Industrial Disputes Act, 1947 was amended in 1956, Section 17-A(I) uses the words 'social justice'.

<sup>8</sup> Muir Mills Ltd. v. sun Mill Mazdoor Union, (1955) 1 LLJ 1 (SC).

<sup>9</sup> State of Mysore v. Workers of Gold Mines, AIR 1958 SC 923.

<sup>10</sup> Punjab National Bank Ltd. v. P.N.B. Employees Federation, AIR 1960 SC 160.



others. To these less fortunate men and women, aid must be given by government not as a measure of charity but as social duty". This duty is to be performed by the society through the State. Social justice, therefore, is dealing equitably and fairly not between individuals but between classes of society; the rich and the poor.

The concept of social justice has become an integral part of industrial law. It is founded on the basic idea of socio-economic equality and its aim is to assist the removal of socio-economic disparities and inequalities. The Constitution of India has also affirmed social and economic justice to all its citizens. Although a number of legislation have been passed with that end in view but still some more important measures need to be taken. Provisions relating to fundamental rights and directive principles of State policy provide sufficient guarantee against exploitation. Social justice has thus been made object of State policy and governmental action. Social justice though not defined in our Constitution, means attainment of the socio-economic objectives by removing existing evils and enacting new legislation to achieve these objectives.

The concept of social justice is not narrow or limited to a particular branch of legislation or adjudication although it is more prominent and conspicuous in industrial legislation and adjudication. Its sweep is comprehensive and is founded on the basic ideal of socio-economic equality and it aims at assisting the removal of socio-economic disparities and inequalities of birth and status and endeavours to resolve the competing claims especially between employers and

workers by finding a just, fair and equitable solution to their human relation's problem so that peace, harmony and co-operation of the highest order prevails amongst them which may further the growth and progress of nations.<sup>11</sup>

Social justice is different from legal justice. The difference is not of objective but aim at dispensing justice. The difference is due to two reasons : (i) Social justice aims at doing justice between classes of society, .and not between individual, (ii) the method which it adopts is unorthodox compared to the methods of municipal law. Justice dispensed according to the law of Master and Servant, based upon the principle of absolute freedom of contract and the doctrine of laissez faire, is legal justice. Social justice is something more than mere justice, it is a philosophy super-imposed upon the legal systems.<sup>12</sup>

Social equity. Any legislation which is based on social justice prescribes a definite standard for adoption in future. such standard is fixed after taking into account the past and present circumstances. Once a standard is so fixed by legislation it remains in force until it is changed or modified by another legislation passed in conformity with the legislative procedure. No discretion is given to change such law to the authority administering such law, However, where it is felt that the law should be flexible and should be changed as the circumstances and conditions change, the law empowers the Government to make such changes. This is generally done by giving the Government rule making power under the provisions of the Act. When power under the Act is given to the Government the

<sup>11</sup> Mahesh Chandra, Industrial Jurisprudence (1976), p. 47.

<sup>12</sup> Industrial Labour in India, p. IX., V.B. Singh Ed., 1963, Quoted in Labour Law and Labour Relations III p. 9.



rules may be modified to suit the changed conditions. Such legislation is said to be based on social equity.

### **Social Security**

The mutual conflict between the employer and the employees over the question of adequacy of their respective shares in social produce, constitutes the crux of the labour problem, of which collective bargaining and industrial conflict are the two most important aspects. As industrialisation advances the worker is increasingly alienated from his previous socio-cultural world and thus faces various insecurities with regard to income and employment in addition to the natural ones (i.e., sickness, maternity and old age) for which the new order does not have structural provision. This is how the problem of social security arises and revolution has meant urbanisation. In ancient times if a person was unable to work on a particular day, he was cared for by the village community or by the members of his family. But now urbanisation has so deeply uprooted these values that in times of sickness, unemployment, old age and other similar contingencies a worker has nothing to fall back upon. In modern times social security is influencing both social and economic policy. Social security is the security that the State furnishes against the risks which an individual of small means cannot, today, stand up to by himself even in private combination with his fellows.<sup>13</sup>

Social security measures are significant from two view points: First, they constitute an important step towards the goal of a welfare State. Secondly, they enable workers to become more efficient

and thus-reduce wastage arising from industrial disputes. Lack of social security impedes production and prevents formation of a stable and efficient labour force. Therefore, social security measures are not a burden but a wise investment which yields good dividends.<sup>14</sup> According to the report of the National Commission on labour "social security has become a fact of life and these measures have introduced an element of stability and protection in the midst of the stress and strains of modern life. It is a major aspect of public policy today and the extent of its prevalence is a measure of the progress made by a country towards the idea of a welfare State. It is an incentive for development, substituting as it does hope for fear in the process improving the efficiency of the working force".

The role of International Labour Organisation in certain standards of social insurance has been significant. The Social Security (Minimum Standards) Convention adopted in 1952 embodies universally accepted basic principles and common standards of social security. The application of these principles has guarded developments of this field throughout the world.<sup>15</sup>

In our country, a number of social security legislations have been enacted from time to time. The earliest of such legislation is the Workmen's compensation Act which ensures payment of compensation in case of a personal injury caused by an accident arising out of and in the course of employment. Maternity Benefit Acts have also been passed by the Parliament and also in different States. In U.P. it was passed in

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<sup>13</sup> V.V. Giri, Labour Problems in Indian Industry, p. 247.

<sup>14</sup> V.V. Giri, Labour Problems in Indian Industry, p. 248.

<sup>15</sup> Report of the National Commission on Labour, (1969), p.



1962. This Act primarily provides for maternity leave to woman workers. The Employees' Provident Fund and Family Pension Fund and Deposit-Linked Insurance Fund Act, 1952 provides for - retirement benefits. The Industrial Disputes Act ensures retrenchment and lay-off benefits. The most important of all legislations is the Employees' State Insurance Act, 1948 which provides for medical, sickness, dependant, disablement and maternity benefits.

### **Growth of Labour Legislation in India**

In India, the plantation industry in Assam was the first to attract legislative control. The method of recruitment of workers in this industry was full of hardships. Workers were employed through professional recruiters. Workers were not allowed by the planters to leave the tea gardens. A number of Acts were passed from 1863 onwards to regulate the recruitments. These legislations protected more the interests of the employers than safeguarding the interest of the workers. The Factories Act was passed in 1881 and the Mines Act in 1901.

But the most important of such Acts as were passed to protect the interest of the workers was the Workmen's Compensation Act, 1923. Some other important social security legislations are : the Employees' State Insurance Act, 1948, the Employee's Provident Funds Act, 1952 and the Maternity Benefit Act, 1961. Laws were also made to regulate the labour management relations. Some of them are : the Industrial Disputes Act, 1947, the Trade Unions Act, 1926 and the Industrial Employment (Standing Orders)

Act, 1946. Labour legislations ensuring labour welfare and minimum standards were also enacted. Some of them are the Factories Act, 1948, the Minimum Wages Act, 1948, the Payment Of Wages Act, 1936 and the Payment of Bonus Act, 1965.

### **Industrial Adjudication**

Social and economic justice is ultimate ideal of industrial adjudication and the basis lies in the guiding principles of social welfare, common good and the directive principles of State policy enshrined in the Constitution.<sup>16</sup> The essential function of industrial adjudication is to assist the State by helping a solution of industrial disputes.<sup>17</sup> Therefore, it has broadly to go by the social and economic policy followed by the State.

The twin objectives of any industrial adjudication are industrial peace and economic justice. The former implies restoration of industrial peace and goodwill in industry so as to establish harmony between labour and capital. Industrial harmony helps in boosting production which would help in general economic progress of the community and strengthen national economy. The latter implies that restoration of industrial peace and goodwill should be on a fair and just basis.<sup>18</sup> Injustice, social or economic, is bound to result in exploitation of labour, inequality of incomes, concentration of wealth in a few hands capitalism and class conflict.

Democratic socialism is the cherished goal of our nation. The acceptance of socialism necessarily adopts a social planning which will subserve the interest of society as against individuals or

<sup>16</sup> State of Mysore v. Workers of Gold Mines, AIR 1958 SC 923.

<sup>17</sup> State of Bombay v. Hospital Mazdoor Sabha, AIR 1960 SC 610.

<sup>18</sup> Crown Aluminium Works v. Their Workmen, AIR 1958 SC 30.





vested classes. All national institutions must have their base on the tenets of socialism.

Social philosophy of the age must also be considered. The concept of welfare State has thrown the doctrine of laissez faire in background. The theory of 'hire and fire' as well as the theory of 'supply and demand', which were allowed free scope under the doctrine of laissez faire, are no longer in practice now. In settling industrial issues the question of propriety and impropriety, fairness and unfairness are taken into account. "As the social conscience of the general community becomes more alive, and active, as the welfare policy of the State takes a more dynamic form, as the national economy progress from stage to stage and as under the growing strength of trade union movement collective bargaining enters the field, industrial issues cease to be purely arithmetical problems. Consideration of the financial position of the employer and the state of national economy have their say, and the requirements of a workman living in a civilised and progressive society also come to be recognised. It is in this sense, and no doubt to a limited extent, that the social philosophy of the age supplies the background for the decision of industrial disputes".<sup>19</sup>

Industrial adjudication must also promote and assist the national economy. Therefore, it becomes necessary that no award should run counter to the labour policy in a planned economy. With that end in view formulation of a rational labour policy becomes most important. A national labour policy must aim at achieving maximum economic welfare,

which requires that (i) the national income shall be maximised, (ii) it shall be divided equally among all the members of the economy/ and (iii) it shall be stable in the sense of being free from violent fluctuations.

The following are some of the guiding principles of industrial adjudication :

- (1) Public interest.—Since industrial adjudication aims at promoting social and economic justice and social and economic justice rests on serving the interest of society as a whole, therefore, industrial adjudication must also sub-serve the public interest. However, public interest is not defined in our industrial law. Public interest are claims or demands or desires involved in life in a politically organised society asserted in title of that organisation.<sup>20</sup>
- (2) Industrial harmony and goodwill.—Whatever be the system of economy, stress is invariably laid on increased productivity, wherein only lies the hopes of increased national wealth. Interested productivity depends on the existence of conditions of harmony and goodwill in industry and workers. Peace and goodwill in industry involve not only absence of industrial conflict and peace is not merely a negative but also a positive concept.<sup>21</sup> Industrial adjudication, therefore, must bear this consideration in solving industrial issues.<sup>22</sup> For industrial harmony mutual understanding and co-operation between several interests which take part in the process of

<sup>19</sup> Kothari G.M. Labour Demands and their Adjudication, Vol. 1 (1972), p. 132,

<sup>20</sup> Roscoe Pound, Outlines of Lectures on Jurisprudence, p. 49.

<sup>21</sup> Kothari, G.M., Labour Demands And Their Adjudication (1972), p. 136.

<sup>22</sup> Mill Mazdoor Sabha v. Swastik Textiles Ltd. (1965) 11 FJR 236 (IT).



production is essential. This will depend upon fair dealing and establishment of good working conditions. For industrial peace, acceptance of trade is necessary. Some have advocated even of acceptance of labour organisations as part of an emerging system of representative government in the sphere of industrial relations.

- (3) Development of industrial justice.— Lasting peace in any industry is possible only when an attempt is made to eliminate the real causes of conflict. Therefore, restoration of peace with justice is necessary. Both social and economic justice are essential for obtaining whole hearted co-operation of labour in the task of production. For labour co-operation equitable distribution of the gains is necessary.
- (4) Expert assistance.—Whenever a Tribunal has before it a matter which requires expert assistance in collecting and assessing the appropriate material as to technical matters, the Tribunal, should avail itself of such assistance. The ultimate decision would, no doubt, rest with the Tribunal, but since the decision has to be based on proper material, the Tribunal must not deny to itself opportunity<sup>23</sup> of expert assistance in obtaining and assessing the appropriate material.
- (5) Socio-economic effects.—While it is true that the industrial tribunals are not social or economic legislatures, it does not mean that they should have no concern with the social and

economic effects of the awards.<sup>24</sup> If any decision is made without taking into consideration its socio-economic effects it may have upon industry or community, it may lose much of its validity.

- (6) Reference to facts and circumstances of each case.—in industrial adjudication laying down of inflexible general rules must be avoided. The more proper approach is to bear in mind all the relevant facts which govern the case and the decision of a question must depend upon the evaluation of all such factors. (7) Tribunals to act in a judicial manner.—The Tribunals must act in a judicial manner. It must ensure that all material evidence is brought to its notice and every opportunity is given to test that evidence by effective cross-examination. It must also consider the evidence produced before it objectively and must reach its final conclusions in a judicial manner.<sup>25</sup>
- (8) Expediency is no consideration.—It is very often impossible to arrive at just settlement of a dispute which satisfies either all or even one of the parties to the—dispute. In the true award making there is no place to expediency or opportunities, disputes must be determined regardless of any dissatisfaction that may occur to an unsuccessful party.<sup>26</sup>
- (9) Acceptability of decisions. It is the duty of an arbitrator or adjudicator to make an award which may be acceptable to both the parties to be workable. He must aim at a possible compromise. He has also to keep in

<sup>23</sup> L National Iron & steel co. Ltd. v. Their Workmen, AIR 1963 SC 325.

<sup>24</sup> Queen v. Kelly & ors. Ex pane, Australian Ry. Union, (1953) 89 CLR 472.

<sup>25</sup> Associated Cement Companies Ltd. v. Their Workmen,. AIR 1959 SC 967.

<sup>26</sup> Industrial Conciliation and Arbitration, Orwell De R, Foenander 2, p. 63.



mind that a decision is useless if it cannot be enforced and that the power and ability of the respective parties to administer a decision successfully is an integral part of the decision. However, if acceptable decision cannot be secured, the arbitrator or adjudicator owes a duty to give his award.

To sum up it may be said that in dealing with industrial dispute, the tribunals should not be unduly influenced by academic questions of law They should as far as possible, deal with the merits of each case according to its facts and circumstances.<sup>27</sup>

(10) Natural Justice.—It was held in *State of Uttaranchal and Another v. Sunil Kumar Singh Negi*,<sup>1</sup> that right to reason is an indisputable part of a sound judicial system, that is reasons at least sufficient to indicate an application of mind to the matter before Court must be given. Another rationale is that the affected party can know why the decision has gone against him. One of the statutory requirements of natural justice is spelling out reasons for the order made. The absence of reasons in rendering the order by the High Court, makes the order unsustainable.

Disciplinary proceedings.—In *UCO Bank and others v. Sushil Kumar Saha*, irregularities were committed by respondent employee while working at branch office of UCO Bank. Later respondent was transferred to Head Office under jurisdiction of Deputy Manager. Disciplinary proceedings were initiated by Assistant General Manager. The question was whether power was conferred on

A.G.M. to act as disciplinary authority. In this case appellant Bank issued circular dated 11 August, 2004 for speedy and expeditious disposal of disciplinary cases. It was held that A.G.M. is justified in initiating disciplinary proceedings which is in accordance with the decision dated August 3, 2004 as well as the circular dated August 11, 2004. The note dated August 3, 2004 which was approved by C.M.D. in exercise of the powers conferred on him under Regulation 5(1) is statutory in nature. Regulation 5 specifically empowers the Managing Director or the Executive Director or any other authority empowered by either of them by general or special order may institute or direct the disciplinary authority to institute the disciplinary proceedings. Further note 2 to the schedule also stipulates that the powers of the specified authorities may be exercised by any other authority nominated by the Executive C/ CMD which is equal in rank or higher than the authority specified therein. The reasons for entrusting the task of initiating disciplinary proceedings on the disciplinary authority of the erstwhile place of posting is that the new disciplinary authority might not be aware of the nature and extent of irregularities allegedly committed by the employee in his earlier place of posting since the relevant records, documents etc. are kept in, the old place of posting. The Bank in its wisdom felt that such a course will expedite disposal of the that such a course will expedite disposal of the disciplinary cases within the stipulated time frame. This court is not expected to sit in judgment over wisdom of the Bank in taking such a decision which is to expedite the disciplinary proceedings.

<sup>27</sup> *Kays Construction Co. (Pvt.) v. Its Workmen*, AIR 1959 SC 208.



Consequently the A.G.M. who had the disciplinary control over the respondent while he was working at the Branch Office has got jurisdiction to conduct an enquiry with regard to the irregularities committed by the respondent while he was working as the Senior Manager at the Branch Office of the Bank from November 15, 2001 to August 13, 2005.

It was therefore held that the High Court has taken narrow view while interpreting Regulation 1976, the note dated August 3, 2004, circular dated August 11, 2004 read with Regulation 5(1). Omitting to note its purpose and object, that is speedy and expeditious disposal Of cases with regard to the disciplinary proceedings against erring officials, the High Court has committed

In facts and circumstances of the case the Supreme Court was of the view that the Division Bench of the High Court has committed error in quashing proceedings initiated by the A.G.M. (Disciplinary Authority) and the punishment imposed. Thus the appeal was allowed.

### **Conclusion**

Industrial jurisprudence focuses on social and legal justice, aiming to address industrial disputes. It is a developing concept that focuses on the principles of social welfare, common good, and State policy. The objectives of industrial adjudication are industrial peace and economic justice, which are essential for economic progress and healthy industrial relations. Injustice can result in exploitation of labor, income inequality, concentration of wealth in a few hands, capitalism, and class conflict. Democratic socialism is the cherished goal of our nation, and all national institutions must be based on its tenets. The social philosophy of the age must also be considered, as the welfare state has

thrown the doctrine of laissez-faire in the background. As the national economy progresses and trade union movements enter the field, industrial issues become more arithmetical, considering the financial position of employers and the state of the national economy.