

Chapter IV

Data and Research Methodology

4.1 Objectives of the Study

In view of the research gap identified by the literature review, this study will attempt a detailed analysis of industrial disputes and work stoppages (Strikes and lockouts), their types, volume and extent, reasons and nature, duration etc. and performance of industrial disputes resolution machinery with the following objectives:

- i) To study the effectiveness of strike/lockout as a means of resolving industrial disputes
- ii) To study the effectiveness of Conciliation in resolving industrial disputes
- iii) To study the effectiveness of adjudication in resolving industrial disputes

4.2 Hypotheses

H01= Work stoppages are not effective in resolving industrial disputes

H02 = Conciliation is not effective in resolving industrial disputes

H03= Adjudication is not effective in resolving industrial disputes

4.3 Study Period

This study will examine the issues of resolution of industrial disputes in West Bengal in the post liberalisation period i.e., from 1991 to 2015.

4.4 Data Source

Both primary and secondary data are used. Data are collected from the annual publication of the Labour Department of Government of West Bengal 'Labour in West Bengal' as well as the records available in the department.

4.5 Data Analysis

Descriptive statistics are mainly used and the collected data are analysed by applying well-known and suitable statistical techniques namely, percentages, share and proportions.

4.6 Research Methodology

Cases of work stoppages will be examined to see whether the issue for which strike or lockout happened resolved in favour of the party resorting to work stoppage including the consequent economic and other costs.

To study the effectiveness of strikes and lockouts, first, the issues involved in strikes and lockouts are studied. The issues involved in strikes and lockouts are broadly classified into four categories:

1. Monetary issues,
2. Personnel issues,
3. Economic Viability and
4. Other issues.

Charter of demands regarding wages, bonus, increments etc. are classified as Monetary issues. The wages and other benefits of the workers are usually settled through collective bargaining between the management and the trade unions. Usually the process starts when the trade unions submit their charter of demands before the employer. They meet together to amicably arrive at a mutually agreed settlement. When

there is a stalemate or either parties become adamant, strike or lockout may ensue. In such circumstances, the parties may also approach the conciliation machinery. During conciliation also such situations may arise and either of the parties may go for strike or lockout to put pressure on the other party. Apart from wages bonus, fringe benefits etc. also fall under this category.

Personnel issues are those issues which are related to non-monetary personnel issues of the organization. It may include recruitment, transfer, promotion, training, change of shift, making temporary workers permanent, redeployment of workers, indiscipline etc. Most of the disputes under this category involves suspension, dismissal etc.

Economic viability is a major cause of lockouts. However, apart from loss of economic viability other related factors like technological obsolescence, Management's intention of reducing working compliments etc. are also included in this category. Many of the lockouts under this category is disguised closure. It is practically impossible for a large industry to declare closure as it requires permission from the government and the government usually does not give permission for closure. So, the management takes the easier route of declaring lockout. Sometimes the management declares lockout on this ground of economic viability to put pressure on the trade unions to accept their proposals of rationalising or downsizing of manpower.

The unclassified issues are grouped together as other issues. The issues included under this category may have elements of one or more of other three issues.

4.6.1 Ross Hartman Ratio

However, both strikes and lockouts are not unidimensional. The significance of a strike or lockout depends on its duration, number of workers involved and mandays lost. Both success and significance of strikes and lockouts depend on these factors. Duration of

strike or lockout tests the resilience of the parties. It is usually difficult for the workers to sustain themselves if the strike or lockout continues for long duration. If the duration of a strike or lockout is too long it leads to virtual closure and both the parties, look for alternatives. Again, as the number of workers involved in a strike or lockout increases its nature and significance changes. It may lead to law and order problem, different political parties may get involved, it gets media attention and naturally government puts pressure on the parties to resolve it. Both these factors are combined in mandays lost.

For studying the duration, coverage and time loss of strikes and lockouts Ross and Hartman's¹ approach has been adopted.

According to this approach, there are three measures of strike or lockout:

Duration Ratio: Calculated by no. of mandays lost divided by workers involved

Coverage Ratio: Calculated by workers involved divided by no. of strikes/lockouts

Time Loss Ratio: Calculated by no. of mandays lost divided by no. of strikes/lockouts

Duration Ratio measures the average duration of strike or lockout. Coverage ratio measures average number of workers involved in strike or lockout and time loss ratio measures the average loss of mandays per strike or lockout.

4.6.2 Resolution of Strikes

The issues involved, coverage ratio, duration ratio and time loss ratio help in understanding the changing nature of strikes and lockouts but they do not reflect their effectiveness. To evaluate the effectiveness of strikes and lockouts, the year wise data regarding resolution of strikes and lockouts are studied.

¹ A.M. Ross and P.T. Hartman, Changing Patterns of Industrial Conflicts, New York: Wiley, 1960

4.6.3 Effectiveness of Conciliation

To evaluate the effectiveness of conciliation, data related to the disputes handled by the conciliation machinery of the state are collected. Year wise data regarding no. of disputes pending, no. of disputes raised and no. of disputes disposed of are given below:

4.6.4 Methods of Disposal

Among the disputes disposed, there are disputes for which the conciliation machinery has submitted failure reports, there are disputes that are settled at tripartite level or bipartite level and there are disputes that are settled otherwise. Thus, industrial disputes are disposed by the conciliation by any of the following methods:

- Disputes settled through conciliation (including cases where parties did not pursue)
- Disputes for which failure Reports u/s. 12(4) of the I.D. Act were submitted to the Government
- Disputes which are settled at bipartite level
- Otherwise disposed of

Only second categories of disposal where the conciliation officer has submitted failure report under section 12(4) of the I. D. Act, 1947 can be termed as failure of conciliation or where the conciliation was not effective. All other methods of disposal reflect effectiveness of conciliation.

4.6.5 Rate of Success and Failure in Conciliation

The above analysis is concerned with the different methods of disposal when disputes were handled by the conciliation machinery. However, to understand the efficacy of conciliation as a method of resolving industrial disputes we need to study its success

and failure rates. The success and failure rates of conciliation were calculated in the following way:

- Failure rate of conciliation = $(\text{Number of Failed Conciliation}) / (\text{Total number of disputes handled}) \times 100$
- Success rate of Tripartite settlement = $(\text{Number of tripartite settlements}) / (\text{total number of disputes handled}) \times 100$
- Resolution rate in conciliation = $(\text{Number of disputes resolved}) / (\text{total number of disputes handled}) \times 100$
- Success rate of conciliation = $(\text{Number of resolved cases}) / (\text{total number of disputes handled} - \text{pending cases}) \times 100$

When an industrial dispute is raised before a conciliation officer, it may get disposed or it may remain pending or the conciliation may fail and in case of failure of conciliation a failure report is sent to the Government by the conciliation officer. Thus it can be said that only in cases where failure reports have been submitted to the government conciliation is ineffective. The pending cases are undecided and may end in failure or success.

4.6.6 Issues involved in successful or failed Conciliation

The issues involved in successful and failed conciliation were also studied. The issues involved in conciliation are categorised as follows:

- Monetary Issues
- Personnel Issues
- Non-monetary benefits
- Other issues

Wages, bonus, allowances, incentives etc. come under the category of monetary issues. Dismissal, retrenchment, discipline etc. come under personnel issues. Non-monetary benefits include canteen, uniform etc. The issues that cannot be categorised in the above three categories are clubbed as Other.

4.6.7 Effectiveness of Adjudication

Under section 10 of the Industrial Disputes Act, 1947, the state Government refers industrial disputes for adjudication and under section 10(1B)(d) the affected workman can directly approach the Labour Court or Industrial Tribunal for adjudication of its dispute.

To evaluate the performance of the adjudication machinery for both types of disputes taken together data were collected from 1991 to 2015 in respect of total number of cases referred or filed before the adjudicating machinery, total number of cases handled (which includes cases carried forward from previous year), total number of cases disposed and total number of complaints regarding violations of award. In conciliation, settlement is arrived at when all the parties agree to it. However, in adjudication agreement of the parties are not required. In that sense adjudication cannot fail. In two cases adjudication can be considered to have failed – when any of the parties' files appeal before higher courts against the award of the labour court or industrial tribunal or when the parties do not carry out the award. The data regarding cases where the parties preferred appeal before the higher courts against the awards are not available in the official records. However, the data regarding number of complaints of violation of award by the parties are available.

Following three measures are used to evaluate the effectiveness of adjudication:

- Rate of Disposal = $(\text{total number of cases disposed in a year}) / (\text{total number of cases handled in a year}) \times 100$
- Rate of Violation of Award = $(\text{total number of complaints of violations of award}) / (\text{total number of cases disposed}) \times 100$
- Rate of successful disposal = $(\text{total number of cases disposed} - \text{total number complaints of violation of award}) / (\text{total number of cases handled}) \times 100$

To compare the effectiveness of all the methods both their rates of success and failure will be compared year-wise as well as during the entire period under study.
