

Chapter VI

Summary and Conclusions

6.1 Summary of the Study

Maintenance of peaceful and harmonious industrial relations is important for any economy. Industrial unrest adversely affects not only the industry but also other stakeholders. Industrial Disputes Act, 1947 provides the statutory framework for resolving industrial disputes between the management and the workers. When an industrial dispute arises the parties try to resolve it through bipartite negotiation which is called collective bargaining. Strike and lockout are two statutory instruments used by the workers and management to put pressure on the other party. If the parties fail to resolve the dispute at bipartite level either of them can seek the intervention of the conciliation officer who is a government officer. The conciliation officer tries to settle the dispute through mediation. If the conciliation officer fails to resolve the dispute, it may be sent for adjudication by the government. This study attempts to evaluate these three statutory mechanisms viz., Strikes and Lockouts, Conciliation and Adjudication of resolving industrial disputes in the context of West Bengal. The entire post liberalisation period is covered in this study i.e., from 1991 to 2015. The data relating to strikes and lockouts, conciliation and adjudication in West Bengal for the period from 1991 to 2015 were mainly collected from the annual publication of the Labour Department of the Government of West Bengal 'Labour in West Bengal' and also from the records available in the labour Department of the Government of West Bengal.

The study found that adjudication is the least effective mechanism for resolution of industrial disputes and conciliation is moderately effective. Conciliation is mostly successful in monetary and other miscellaneous issues whereas failure of conciliation

is more pronounced in personnel issues. External political situation and government policy affects industrial disputes and their resolution. The workers go for strike mainly over monetary issues whereas most of the lockouts are due to economic non-viability which is strictly speaking not an industrial dispute. May be that is the reason why only 19.61% of lockouts got resolved during the study period as against 57.84% of the strikes. Another important finding of the study is that a considerable percentage of awards of the adjudicating authorities do not get implemented which means that the grievance of the parties remain unresolved even after it is decided by the adjudicating forum. The study suffers from the limitations that it did not explore the factors affecting the efficacy of different mechanisms of industrial dispute resolution and the low rate of disposal of adjudicating authorities.

6.2 Conclusion

6.2.1 Strikes and Lockouts

The data reveals that during the period under study, 761 cases of strikes were reported of which 55.32% were due to monetary issues like wages or bonus, 17.10 % were due to personnel issues like dismissal, retrenchment etc., only 2.23% were due to economic viability and 25.50% were due to other unclassified causes. After 2006, there was a sharp fall in the number of strikes which further dipped after 2011. The leftist trade unions were famous for their militancy and may be after 2006 they were losing their grip over the trade union movement in the state. It may also happen because of the pro-industry stance of the then government. It may not be mere coincidence that in 2006 the then Government of West Bengal took control of the land in Singur for setting up the Nano factory by the Tatas. In 2011, the new government came into power and took strong stand against strikes which resulted in almost zero strikes in West Bengal. In

2014, 314 number of strikes happened because of the industry wide strike in tea industry for wage settlement.

The data reveals that during the period under study, 6166 cases of lockouts were reported of which 2.27% were due to monetary issues like wages or bonus, 40.35 % were due to personnel issues like dismissal, retrenchment etc., 46.90% were due to economic viability and 11.32% were due to other unclassified causes. It can also be seen that number of lockouts were lowest during the three-year period from 1994 to 1996 then steadily increased reaching its peak in 2003. During next three years it fell and stabilised. Similar to the trend shown by strikes, lockouts also drastically decreased after 2006 and then slowly increased till 2013. There was a significant fall of number of lockouts involving economic viability after 2006 and lockouts due to indiscipline also fell after 2006. Lockouts involving economic viability again started increasing after 2011.

In both the cases of strikes and lockouts the years 2006 and 2011 are significant. In 2006, the left front government took over land in Singur for setting up Nano plant by the Tatas and in 2011 there is a change in the government. How these incidents affected the strikes and lockouts are beyond the scope of this study but clearly demonstrates the impact of external political situations in Industrial Relations.

Again, from the data it can be seen that monetary issues are major causes of strikes whereas personnel and economic viability are the major reasons of lockouts.

The data reveals that the coverage ratio of strikes which reflects average number of workers involved per strike gradually increased from 1999 and was maximum from 2006 to 2009 after which it gradually declined. There is wide fluctuation in duration

ratio of strike which measures the average duration of strikes with peaks in 1992, 1996 to 1998, 2001, 2007 and then in 2011 and 2012.

Duration ratio was quite high in 1992, then comparatively low for the next three years (1993,1994,1995) followed by three consecutive high duration ratio (1996,1997,1998). It again peaked in 2001 and then was low for next five years (2002 to 2006). It again peaked in 2007 but was low for next two years (2008,2009). It was moderately high in 2010 and 2011 but reached an all-time high in 2012. Duration ratio measures average duration of strikes. Longer duration means both the parties are adamant and it also reflects the resilience of the workers. Politically in West Bengal both 2006 and 2011 were important as during those times there were shifts in political power. And interestingly, in subsequent years the duration ratios were quite high. It may reflect the power shift in the trade unions also. Generally, the employers were reluctant to accept the newly powerful trade union and its leaders which may lead to strike on any issue. The newly formed trade unions and their leaders need to establish their authority and acceptance to both the workers and the employers. In old traditional organizations it becomes difficult as the employers were dealing with leftist trade unions and their leaders for quite a long time and were comfortable with them. They naturally hesitate to accept the unknown and step out of their comfort zone. Interestingly, the duration ratio was lowest in 2006 when the actual shift of power was happening. It may reflect the lack of confidence of the trade union leaders as they were not sure whether the workers were still with them.

Coverage Ratio measures the average number of workers involved in strikes. Coverage Ratio was moderately high during 2003 and 2004. From 1991 to 2002, it was quite low except in 1992, 1999 and 2000. However, from 2006 to 2010 the coverage ratio suddenly increased which means more workers were involved in the strikes which in

turn means large organizations were mostly affected by it. It may be a reflection of the struggle for power between existing leftist trade unions and emerging Trinamool Congress trade unions. May be that is the reason why it drastically fell in 2011 onwards when the shift of power was complete.

Time loss ratio of strikes peaked just after liberalisation in 1992 and then again from 2007 to 2010 after which it became almost nil. Time loss ratio measures average mandays loss for strikes. It takes into account both the duration of strikes and the number of workers involved. Time loss ratio was very high in 1992 which was right after the announcement of new economic policy. Then it was lowered and reached its lowest in 1998. It was moderately high in 1999 and 2000. It was moderate in next four years i.e., from 2001 to 2004. In 2005 it spiked though again in 2006 it was low. Interestingly, highest time loss was recorded in 2007. For next three years i.e., from 2008 to 2010 it decreased comparatively but remained quite high. It became negligible from 2011 onwards.

The trends in all these three ratios reflects the significance of external political situation in strikes.

The lockout duration ratio gradually increased over the study period but the coverage ratio steadily declined. Lockout duration ration measures the average duration of lockouts and lockout coverage ratio measures average number of workers affected by lockouts. During the period under study there is not much fluctuation in lockout duration ratio and it veered between 71 days and 190 days. However, the lockout coverage ratio steadily declined over the years. From around 750 it came down around 300. On the one hand it may reflect that gradually smaller organizations are getting affected by lockouts. But it may also be for other reasons. After 1991, most of the

organizations opted for continuous downsizing. Therefore, for the same organization over the years the coverage ratio decreased with the decreasing number of workers.

The lockout time loss ratio started declining after 2006 though before that it was more or less stable. Lockout Time Loss ratio measures the average mandays loss due to lockouts. As it can be seen from the graph, lockout time loss ratio fell sharply in 1995 then remained within a band with some fluctuations but with a trend of slight gradual increase. But after 2006 it steadily fell though at a very low rate.

During the period under study, there were 731 strikes of which 539 were resolved. Average rate of resolution is 57.84%. the rate of resolution started falling after 1992 though picked up in 1995 and 1999. The lowest rate of resolution is during 2004-05. After 2009 the rate of resolution steadily went up. Here also, the rate of resolution of strikes increased from 2006 and drastically jumped from 2011. The fall in success rate after 1995 may be attributed to the New Economic Policy and Globalisation because of which the trade unions to a great extent lost their power. The number of strikes also drastically fell after 2005 which may be due to the transition of power. Perhaps the trade unions were not confident enough to go in for strikes.

From 1991 to 1995 except 1994 the rate of resolution of strike was quite high. Thereafter the rate fell but remained moderate till 2003. For subsequent three years (2004,20005, 2006) it was quite low. Thereafter it became moderate till 2010. In 2011 it was quite high and thereafter the rate of resolution of strike is hundred percent. So external political situation does not only affect the nature of strike in terms of duration, number of workers involved and mandays lost but it also influences the success of strikes. The new government in 2011 adopted a policy of zero tolerance to strikes the outcome of which is reflected in the data. The large number of strikes in 2014 was due to the industry wide strike in tea industry.

The data reveals that there were 6166 lockouts during the period under study of which 1083 were resolved making the average rate of resolution 19.61%. The rate of resolution of lockouts steadily declined over the years starting from 1994. The reason for low rate of resolution of lockouts are understandable as 46.90% of lockouts are due to economic non-viability which cannot be resolved through the mechanisms under Industrial Disputes Act, 1947.

The rate of resolution of lockouts continuous fell from 1994. One of the reasons is that most of the lockouts were due to economic reasons. Many lockouts are also closures in the disguise of lockout. The Industrial Disputes Act, 1947 stipulates that for an industry employing 100 or more workers, permission for closure from the government should be taken and the workers were also should be paid compensation at the rate of 15 days' wages for every completed years of work. Government usually does not give permission for closure. So declaring lockout is the easiest way out for the employers. Further, they need not pay the compensation also if there is lockout instead of closure. The workers are also benefitted as they get a financial assistance from the government at the rate of Rs. 1500/- per month till he attains the age of superannuation or till he gets the terminal dues under the scheme of FAWLOI (Financial Assistance to the Workers of Locked Out Industries).

6.2.2 Conciliation

The number of disputes raised before the conciliation machinery was above 3600 from 1991 to 1993 and thereafter it started decreasing. From 1996 to 2002 it ranged between 2250 to 2469 and then started increasing again till 2007. After 2007 it drastically fell and reached its lowest 2015. Again, it can be linked with the change in the political power. The shift of political power started from 2006 and interestingly number of disputes reached its peak in 2006. It may reflect the political struggle between the trade

unions during this period. As the outgoing left trade unions realised that they have lost the support of the workers they became hesitant to raise disputes. The emerging trade unions and their leaders were new in the field and were not also sure about actual support of the workers and as such they also avoided raising disputes in the appropriate forum. In 2011, as the new government came into power with overwhelming majority they did not depend on the conciliation machinery to settle their dispute. The situation remained more or less same till 2015.

The number of disputes handled by the conciliation machinery steadily fell from 8045 in 1991 to 5102 in 1998. The fall continued except in 1999 and 2000.

The percentage of disposal was between 40 and 53 till 2001 but thereafter drastically fell to 37.88% in 2002 and the fall continued except in the year 2007. One of the reasons for this decreasing effectiveness of conciliation machinery may be shift of focus of the government. In 2001, the Government shifted its focus from the organised to the unorganised sector workers and in 2001 it introduced a Scheme of Provident Fund for Unorganised Workers which was administered by the same conciliation machinery.

During the period under study, the conciliation machinery on an average handled around 4779 disputes per year of which 1927 disputes were disposed. The rate of disposal to the total disputes handled comes to 37.17%.

Average failure rate during the period under study is 9.21% and disposal through tripartite settlement is 26.82%. However, the actual disposal rate is much higher because many times disputes are shown to be settled at bipartite level or as otherwise though the dispute got settled because of conciliation.

The percentage of tripartite settlement was stable from 1991 to 1995 ranging from 25.33 in 1992 to 30.51 in 1991 with a mean of 28.84. For the next five years i.e., from 1996

to 2000, the mean was 21.15 ranging from 17.89 in 2000 to 23.68 in 1997. It spiked in 2001 with the percentage of 43.58. It was stable from 2002 to 2008 with a mean of 30.39 and ranging from 25.16 in 2004 to 33.72 in 2007. In 2009 it decreased to 19.51 but next year in 2010 it was 31.03. In 2011, when there is a change in the government it was 27.58 but for the next two years it was low with 18.73 in 2012 and 13.1 in 2013. But again regained its position with 25.03 in 2014 and 29.39 in 2015.

The percentage of bipartite settlement was stable throughout the study period except in 1996,1999,2013, 2014 and 2015. It was quite low in 1999 (3.98%) and 2014 (2.73%). It was comparatively high in 1996 (11.27), 2013 (11.03%) and 2015 (10.81%). Apart from these years the percentage of bipartite settlement varied from 4.55 in 2010 to 8.77 in 2006 with a mean of 6.52.

The percentage of otherwise disposal cases ranged between 40.16 in 2001 and 69.66 in 2013 with a mean of 57.12. The percentage gradually increased from 50.04 in 1991 to 66.71 in 2000 and then drastically fell to 40.16 in 2001 and then again it started rising. The percentage was quite high during 2012 to 2014 but again decreased in 2015.

The percentage of failed conciliation ranged from 3.69 in 2007 to 15.27 in 2002 with a mean of 9.21. Here also after 2006, the percentage was quite low with the exception of 2012 when it was 9.21.

The failure rate ranged from 3.24 in 2004 to 5.79 in 2002 with a mean of 4.75. Thereafter it drastically decreased ranging from 0.90 in 2015 to 2.36 in 2006 with a mean of 1.47. Thus overall failure rate is quite negligible and it appears that from 2006 the rate of failure had decreased further. In West Bengal, Politically, the year 2006 was a significant year. Here the rate of failure low does not mean that conciliation was

effective. If the disputes remain pending for long, then also the rate of failure will be low.

Next we will see the rate of resolution of disputes. From 1991 to 2001 it was considerably high ranging from 35.70 in 1996 to 49.57 in 1997 with a mean of 42.29. From 2002 to 2015 it decreased considerable with the exception of 2007 when it was 45.19. If we do not take into consideration the year 2007 then the rate of resolution from 2002 to 2015 ranged from 11.25 in 2015 to 33.44 in 2003 with a mean of 25.51. Again 2001 was the year in which the government of west Bengal launched a scheme for unorganised workers and the focus shifted for industrial relations to labour welfare which may be the reason for sudden fall in rate of resolution of disputes by the conciliation machinery.

However, this rate of resolution does not correctly reflect the effectiveness of conciliation as the pending cases has not been taken into account. After taking into account the pending cases the success rate jumps. From 1991 to 2006, the success rate ranged from 84.73 in 2002 to 92.29 in 1995 with a mean of 89.07. From 2007 to 2015, the success rate ranged from 93.85. Thus the decreasing resolution rate did not affect the success rate. It is because when resolution rate was low the number of pending cases increased.

The data reveals that conciliation is mostly successful in monetary issues and other miscellaneous issues. Failure of conciliation is more pronounced in personnel issues.

6.2.3 Adjudication

During the 25 years' study period the state adjudication machinery handled on an average 1634 disputes per year and disposed of around 274 cases. The mean rate of disposal per year is 16.67%. A dispute when adjudicated upon results in award or no

award. The parties have the option of preferring an appeal in higher courts. But in some cases, the parties neither go for appeal nor comply with the award. In such cases, the other party files complaint regarding violation of award. On an average, in 48 cases per year there are complaints regarding violation of award. Further, unlike conciliation, the adjudicating machinery has the power to dispose of the cases on its own. They do not need the consent of the parties to pronounce the award. Considering these, the rate of disposal by the adjudicating machinery is quite low. If we deduct the cases of award violation, the effective rate of disposal comes to around 13.79%.

During the study period the rate of disposal ranged from 11.95 in 2004 to 26.32 in 2003 with a mean of 16.67 and standard deviation of 3.40. Rate of violation of award ranged from 5.49 in 2008 to 32.17 in 2011 with a mean of 17.77 and standard deviation of 7.96. Rate of successful disposal ranged from 8.29 in 2011 to 22.39 in 2003 with a mean of 13.79 and standard deviation of 3.43.

From the analysis of data, it is seen that till 2005 there is a relation between the number of cases of disputes handled and the number of cases of disputes disposed. However, after 2005 the number of disposals stabilised around 200 irrespective of the number of disputes handled and the number of disputes handled steadily declined over the years. The number of disputes handled declined because the number of disputes referred or filed for adjudication declined.

It is seen that even after adjudication in many cases the award is not honoured/implemented. Apart from violation of award the parties have the option of preferring an appeal in higher courts. However, data relating to cases where the parties preferred appeal is not available.

It is interesting to note that when the disposal rate showed an upward trend the violation rate showed downward trend and vice versa. One reason may be that there is a time lag between the two. Complaints of violation of award is filed not immediately after the case is disposed of by award. The affected party waits for some time and even pursues the case before the other party before filing a formal complaint.

6.2.4 A Comparison

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The paper concludes that appropriate intervention by the government supported by change in the attitude of the stakeholders may minimise the loss of mandays due to work stoppages making the harmonious relation between the management and the workers sustainable.

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Average failure rate during the period under study is 9.21% and disposal through tripartite settlement is 26.82%. However, the actual disposal rate is much higher because many times disputes are shown to be settled at bipartite level or as otherwise though the dispute got settled because of conciliation. Further, conciliation is mostly successful in monetary issues and other miscellaneous issues. Failure of conciliation is more pronounced in personnel issues.

During the 25 years' study period the state adjudication machinery handled on an average 1634 disputes per year and disposed of around 274 cases. The mean rate of disposal is per year is 16.67%. Again, on an average, in 48 cases per year there are complaints regarding violation of award which is around 17.77%. Further, unlike conciliation, the adjudicating machinery has the power to dispose of the cases on its own. Considering these, the rate of disposal by the adjudicating machinery is quite low. If we deduct the cases of award violation, the effective rate of disposal comes to around 13.79%. If the cases where the parties preferred appeal before higher Courts are considered the rate of disposal will fall further. The objective of this study was to evaluate the functioning of the adjudicating machinery under the Industrial Disputes Act, 1947 in West Bengal which shows that adjudication as a means of settling industrial disputes is not serving its purpose.

6.3 Recommendations and Policy Implications

In view of the findings from the study following policy recommendations are suggested:

- The rights disputes should directly go for adjudication. It will save time for the parties and lessen the burden on the conciliation machinery.

- The reasons for low disposal rate of the adjudicating machinery should be studied and necessary action should be taken to make it more efficient.
- Violation of award of the adjudicating authorities should be strongly dealt with. Adjudicating authorities should be vested with sufficient power to enforce its awards. The existing process of dealing with violation cases should be simplified.
- Interest disputes should not be sent for adjudication without the consent of both the parties.
- The trade unions should be de-politicised. To a great extent it is expected to insulate industrial relations from the external political situation. In place of political voluntary trade unions some other collective body may be prescribed which every industry should compulsorily have as a representative body of the workers irrespective of political affiliation.
- Lockout because of economic factors should be excluded from industrial disputes Act or some special provision should be made to deal with such cases. These disguised lockouts are difficult to handle and result in lose-lose situation for all the stakeholders.

6.4 Contributions from the Study

Following points emerged from the study:

- Adjudication is the least effective mechanism for resolution of industrial disputes
- Conciliation is moderately effective
- Conciliation is mostly successful in monetary issues and other miscellaneous issues.

- Failure of conciliation is more pronounced in personnel issues.
- External political situation and government policy affects industrial disputes and their resolution
- Monetary issues are major causes of strikes whereas personnel and economic viability are the major reasons of lockouts

6.5 Limitations & Scope for Further Research

Examining the reasons behind low rate of disposal by the adjudicating machinery and considerable number of cases of Award violation are not within the scope of this study. Again, there is lack of data regarding number of appeals filed before higher courts. There is scope for further research in this area based on primary data. The functioning of the adjudicating machinery may be studied in details and perception and suggestions from the stakeholders may be gathered.
