

Madhya Pradesh Industrial Relations Act, 1960

27 of 1960

[31 December 1960]

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PREAMBLE

An Act to regulate the relations of employers and employees in certain matters, to make provision for settlement of industrial disputes and to provide for certain other matters connected therewith.

Be it enacted by the Madhya Pradesh Legislature in the Eleventh year of the Republic of India as follows-

CHAPTER 1 Preliminary

1. Short title, extent and commencement :-

(1) This act may be called the Madhya Pradesh Industrial Relation Act. 1960.

(2) It extends to the whole of Madhya Pradesh.

(3) This section and section 112 shall come into force at once and the state government may, by notification bring, all or any of the remaining provisions of this Act into force in respect of

(a) any or all industries, or,

(b) undertakings in any industry wherein the number of employees, on any day, during twelve months preceding or on the date of the notification or on any day thereafter, was or is more than such number as may be specified in such notification on such date as may be specified therein.

(4) The State Government may, by notification, direct that the provisions of this Act shall cease to apply to such industry in such area and from such date as may be specified in the notification.

Application of the Act to the Narmada Valley Development Authority -The Act is not applicable because by the notification dated 20-1-1999, engineering industry being carried on by any "Department of the State Government" has been excluded from the entry No. 16 in the Notification dated 31-12-1960. Narmada Ghati Vikas Pradhikaran Vs. Purushottam Karanne, 2005 M.P.L.S.R. 97(Ind. Court) Development Authority is not a department of the Government- It is a separate legal entity and a distinct juristic personality, hence Entry No. 16 as amended by notification dated 20-1-1999. The Labour Court has jurisdiction to decide the application. Sanjay Vyas Vs. C.E.O., Dewas Development Authority, 2005 M.P.L.S.R. 154 (Ind. Court). Applicability of Act to the Central Govt. Employee. The employees of Central Government, will be governed by Industrial Dispute Act, 1947. The MP. Industrial Relation Act, 1960 can not be applied. Opium and Alkaloid Factory

Vs. Sadakat Ali, 2004 M.P.L.S.R. 106 (Ind. Court). 1-A. Act shall not apply to such industry- The provision contained in this Act shall not apply to an industry being carried on by or under the control of the State Government; Provided that the State Government may, by notification, direct that provisions contained in this Act shall apply to such industry being earned on by or under the control of the State Government, as may be specified in the notification.

2. Definition :-

In this Act unless the context otherwise requires

1) "approved list" and "approved union" shall have the meanings assigned to them in the Indian Trade Unions Act, 1926 (XVI of 1926) as in force in Madhya Pradesh;

(2) arbitration proceeding, means-

(i) Any proceeding under this Act before an arbitrator, or

(ii) Any proceeding in arbitration before a Labour Court, the Industrial Court or a Board

(3) arbitrator means an arbitrator to whom a dispute is referred for arbitration under this Act and includes an umpire;

(4) association of employers means any combination of employers recognized by the State Government under section 24;

(5) award means any interim, final or supplementary determination in an arbitration proceeding of any industrial dispute or of any question relating thereto,

(6) Board means a Board of Arbitration Constituted under section II;

(7) change means an alteration in an industrial matter;

(8) closure means the closing of any place or part of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, whether such closing, suspension or refusal is or is not in consequence of an industrial dispute;

(9) Commissioner of Labour means the Commissioner of Labour appointed under subsection (1) of sec 3,

(10) conciliation proceeding means any proceeding held by a Conciliator under this Act..

(11) Conciliator means any Conciliator appointed under sec 4 and includes the Chief Conciliator,

(12) Court of Enquiry means a Court constituted under section 79;

(13) employee means any person employed in any industry to do any skilled, unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be

express or implied, and includes

(a) a person employed by a contractor to do any work for him in the execution of a contract with an employer within the meaning of sub-clause(e) of clause 14, and

(b) an apprentice other than an apprentice under sub-clause (v) but does not include any person

(i) who is subject to the Army Act, 1950 (XLVI of 1950), or the Air Force Act, 1950 (XLV of 1950). or the Navy Discipline Act 1957 (62 of 1957); or

(ii) who is employed in the Police Service or as an officer or other employee of prison: or

(iii) who is employed mainly in a managerial capacity or

(iv) who being employed in a supervisory capacity draws wages exceeding one thousand and six hundred rupees per mensem or

(v) who is a craftsman or an apprentice working under a scheme approved by the State Government on the condition that such craftsman or apprentice shall not be deemed to be an employee under this Act:

Explanation- An employee who has been dismissed, discharged or retrenched from employment or whose employment has been otherwise terminated shall, in respect of matters relating to such dismissal, discharge, retrenchment or termination, be deemed to be an employee for the purposes of this Act,

(14) employer includes

(a) an association or group of employers,

(b) any agent of an employer,

(c) where an industry is conducted or carried on by a department of the Central 2[Government] or the State Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of the department.

(d) where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of the authority.

(e) where the owner of any undertaking in the course of or for the purpose of conducting the undertaking contracts with any person for the execution or under the contractor of the whole or any part of any work which is ordinarily part of the undertaking, the owner , (the undertaking.

(15) illegal change means an illegal change within the meaning of section 34

(16) Industrial Court means the Court constituted under Section 9.

(17) Industrial Dispute means any dispute or difference between an employer and employee or between employers and employers or

between employees and employees and which is connected with any industrial matter.

(18) Industrial matter means any matter relating to employment, work, wages, hours of work, privileges, rights or duties of employers or employees or the mode, terms and conditions of employment or refusal to employ and includes the mode, terms and conditions of employment or refusal to employ and includes,

(1) all matters pertaining to-

(a) the relationship between employers and employees.

(b) the dismissal or non-employment of any person.

(c) the demarcation of functions of any employee or classes of employees.

(d) any right or claim under or in respect of or concerning a registered agreement or a submission, settlement or award made under this Act, and.

(2) all questions of what is fair and right in relation to any such matter having regard to the interest of the person immediately connected and of the community as a whole.

(19) Industry means

(a) any business, trade, manufacture or undertaking or calling of employers.

(b) any calling, service, employment, handicraft, or industrial occupation or avocation of employees, and includes-

(i) agriculture and agriculture operations;

(ii) any branch of an industry or group of industries which the State Government may by notification, declare to be an industry for the purposes of this Act.

(20) Joint Committee means a Joint Committee constituted under section 36.

(21) Labour Court means a Labour Court constituted under section 8.

(22) Labour officer means a Labour Officer appointed under subsection (1) of sec 6 and includes a Deputy Labour Officer while exercising the powers and performing the duties of a Labour Officer as may be assigned to him by the Commissioner of Labour under sub-section (3) of section 6

(23) Local area means any area notified as a local area for any or all industries and for all or any of the purpose of this Act Provided that such area shall not comprise of more than one revenue district. [Provided further that such area may, for reasons to be recorded in writing comprise of more than one revenue district including the entire State.]

(24) Lock-out means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, whether such closing, suspension or refusal occurs in consequence or in anticipation of an industrial dispute and is intended for the purpose of-

(a) compelling any of the employees directly affected by such closing, suspension or refusal or any of his other employees; or

(b) aiding any other employer in compelling persons employed by him to accept any term or condition of or affecting employment.

(25) Member means a person who is an ordinary member of a union and who has paid a subscription of not less than 2[one rupee] per month.

Provided that no person shall at any time be deemed to be a member if his subscription is in arrears for a period of two months or more next preceding such time. Explanation- A subscription for a particular month shall, for the purposes of this clause, be deemed to be in arrears if such, subscription is not paid by the end of the month in respect of which it is due

(26) Registrar means the Registrar under section 5 and if no such person is appointed, the Registrar of Trade Unions under the Indian Trade Unions Act, 1926 (XVI of 1926), and includes an Assistant Registrar while exercising such powers and performing such duties of the Registrar as may be conferred or imposed on him by or under this Act.

(27) Representative of employees means a representative of employees entitled to appear or act as such under section 27.

(28) Representative union means a union for the time being registered as a Representative Union under this Act.

(29) Settlement means a settlement arrived at during the course of a conciliation Proceeding under this Act.

(30) Standing orders means standing orders as defined in [the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961)],

(31) Stoppage means a total or partial cessation of work by the employees in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work, whether such cessation or refusal is or is not in consequence of an industrial dispute.

(32) Strike means a total or partial cessation of work by the employees in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to

continue to work or to accept work, where such cessation or refusal is in consequence or in anticipation of an industrial dispute;

(33) Undertaking means a concern in any industry;

(34) Union means a Trade Union of employees which is registered under the Indian Trade Union Act, 1926 (XVI of 1926).

(35) Wages means remuneration of all kinds capable of being expressed in terms of money and payable to the employee in respect of his employment or work done in such employment and includes-

(i) any bonus, allowances (including dearness allowance), reward or additional remuneration;

(ii) the value of any house accommodation, light, water, medical attendance or other amenity or service;

(iii) any wages payable for the period of leave;

(iv) any compensation payable for lay-off or retrenchment,

(v) any contribution by the employer to any social security scheme, pension or provident fund;

(vi) any gratuity payable on discharge;

(vii) any traveling allowance or value of any traveling concession;

(viii) any sum paid or payable to or on behalf of an employee to defray special expenses entailed on him by the nature of his employment; and

(ix) any amount payable to an employee under any law for the time being in force for the protection of rights of employees or for regulating their relations with the employers, or under any award, settlement or agreement.

CHAPTER 2 Authorities to be constituted or appointed under this Act

3. Commissioner of Labour :-

(1) The State Government shall, by notification, appoint a person to be the Commissioner of Labour for the State and may appoint the following categories of Officers to assist the Commissioner of Labour.

(a) Deputy Commissioner of Labour;

(b) Assistant Commissioner of Labour.

(2) The Deputy Commissioner of Labour and the Assistant Commissioner of Labour shall, subject to the control of the Commissioner of Labour and to the conditions, and restriction if any, prescribed by the State Government in this behalf, exercise such powers and perform such duties of the Commissioner under

this Act may be delegated to them by the Commissioner of Labour for time to time.

4. Conciliator :-

(1) The State Government shall, by notification appoint a person to be Chief Conciliator for the State

(2) The State Government may by notification, appoint any person to be a Conciliator for any or all industries in a local area or areas specified in the notification.

5. Appointment of Registrar and Assistant Registrar :-

(1) The State Government may, by notification, appoint the Commissioner of Labour or any other person to be the Registrar of Representative Unions under this Act.

(2) The State Government may, by notification, appoint an Assistant Commissioner of Labour or any other person to be an Assistant Registrar of Representative Unions for any such local area or area as may be specified therein and may, by general or special order confer and impose on any such person all or any of the powers and duties of the Registrar

6. Labour Officers and Deputy Labour Officers :-

(1) The State Government may, by notification, appoint persons in such number as it thinks fit to be Labour Officers and Deputy Labour Officers.

(2) A Labour Officer appointed under sub-section (1) shall exercise jurisdiction within such local area or areas as may, from time to time, be assigned to him by the Commissioner of Labour.

(3) A Deputy Labour Officer appointed under sub-section (1) shall exercise such powers and perform such duties of a Labour Officer under this Act, as may from time to time, be assigned to him by the Commissioner of Labour in such local as may be specified by him.

7. Powers of supervision of Commissioner of Labour :-

The Deputy Commissioner of Labour, the Assistant Commissioner of labour, the Chief conciliator, the Conciliator, the Registrar, the Assistant Registrar, the Labour Officer and the Deputy Labour Officer shall, subject to the provisions of this Act and the rules made thereunder the general guidance and supervision of the

Commissioner of Labour.

8. Labour Courts :-

(1) The State Government shall, by notification, constitute one or more Labour Courts having jurisdiction in such local area or areas as may be specified in such notification.

(2) The Labour Court shall be presided over by a single person to be appointed by the State Government [with the approval of the Chief justice of the High Court.]

(3) A person shall not be qualified for appointment as a presiding officer of a Labour Court unless-

(a) he has held any judicial office in India for not less than three years; or

(b) he has held any Office in the Labour Department not below the rank of a Labour Officer for a period of not less than five years and is a law graduate; or

(c) he has practiced as an Advocate or a pleader in Madhya Pradesh for a total period of not less than five years; or

(d) he is or has been a presiding officer of Labour Court constituted under any law.

(4) Notwithstanding anything contained in this section, any person who before the coming into force of this Act has been a presiding officer of any Labour Court constituted under the Bombay Industrial Relations Act, 1946 as adapted by the Madhya Bharat Industrial Relations (Adaptation) Act, Samvat 2006 (31 of 1949) for a period of not less than three years shall unless otherwise directed by the State Government continue to be the presiding officer of such Court and appointment of presiding officers of Labour courts,

8A. Appointment of Additional Presiding Officers :-

(1) An Additional Presiding Officer having the qualification laid down in subsection (3) of section 8 may, whenever it appears necessary or expedient, be appointed by the State Government to a Labour Court constituted under sub section (1) of Section 8 and such Additional Presiding Officer shall have the jurisdiction of the Labour Court to which he is appointed and shall exercise powers of the Presiding Officer thereof, subject to such conditions as may be laid down by the State Government in this behalf

(2) A person may be appointed an Additional Presiding Officer of one or more courts, and a Presiding Officer of one court may be appointed an Additional Officer of another court or of other courts.

9. Industrial Court :-

(1) There shall be an Industrial Court for the State consisting of the President, and two or more members as the State Government may, from time to time, think fit to appoint

(2) A person shall not be qualified for appointment as President of the Industrial Court, unless- -

(a) he is or has been a judge of a High Court; or

(b) he is eligible for being appointed a judge of a High Court; or

(c) he has worked as President or member of the Board of Revenue for a period of not less than three years, or

(d) he has worked as commissioner of Labour for a period of not less than three years; or

(e) he has worked as a member of the Industrial Court for a period of not less than five years

(2-a) A person shall not be qualified for appointment as a member of the Industrial Court, unless-

(a) he has been a judge of a High Court; or

(b) he is eligible for being appointed a judge of a High Court; or

(c) he has been a District Judge for a period of not less than three years; or

(d) he has acted as a Presiding Officer of a Labour Court constituted under any law for the time being in force for not less than seven years; or

(e) he has in the opinion of the State Government adequate knowledge in the field of industrial relations.

(3) Notwithstanding anything containing in this section any person who immediately before the coming into force of this Act was acting as a member of the Industrial Court constituted under the Bombay Industrial Relations Act, 1946 as adapted by the Madhya Bharat Industrial Relations (Adaptation) Act, Samvat 2006 (31 of 1949) shall unless otherwise directed by the State Government, continue to be a member of the Industrial Court under this Act.

(4) Notwithstanding anything contained in sub-section (2) if the office of the President of the Industrial Court falls vacant, the State Government may appoint a member of the Industrial Court 2[if any] temporarily in such vacancy for a period not exceeding six months.

(5) The Industrial Court shall hold its sittings at such place or places within the State as the President may direct.

(6) The Industrial Court may make rules for the exercise of powers and functions of the Court, by benches constituted of one or more

members thereof, and all decisions or awards given by such benches in exercise of such powers or functions shall be deemed to be the decisions or awards of the Industrial Court.

(7) Where in a proceeding before a Bench consisting of even number of members, equal number of members consisting of such Bench differ on a point, then-

(i) if the President is a member of such a Bench, the point on which the members differ shall be stated and placed for decision before such person other than a member of the Industrial Court and qualified to be President thereof under sub-section (2) of section 9 as the State Government may, by notification, specify;

(ii) if the President is not a member of such a Bench, the point on which the member differ shall be stated and placed before the President who may either decide the point himself or may nominate one or more of the other members to deal with the matter.

10. Omitted :-

Omitted

11. Board of Arbitration :-

(1) The State Government may, by notification, constitute a Board of Arbitration

(2) The State Government shall, in the prescribed manner, prepare panels of members representing the interests of employers and employees who may be appointed members of the Board.

(3) Whenever a Board to be constituted each party to the dispute shall be called upon by the prescribed authority to submit a panel of not less than five persons representing its interests and to propose jointly a person to be appointed as chairman within such time as may be prescribed

(4) The Board shall consist of an equal number of persons nominated by the State Government from the respective panels of the parties submitted by them under sub-section (3) and Chairman jointly nominated by them Provided that

i) if either or both parties fail to submit the panels as required by subsection (3), the State Government shall appoint the requisite number of persons as representing the interests of the party in default from the panels of persons prepared under subsection (2). and

(ii) if the parties fail to agree to the appointment of any person as Chairman within the prescribed period the State Government shall

appoint a member of the President of the Industrial Court to be the Chairman of the Board. (5) If any vacancy occurs in the office of the Chairman or a member of the Board before the Board has completed its work, it shall be filled in the manner prescribed and the proceedings shall be continued before the Board so reconstituted from the stage at which they were when the vacancy occurred

12. Finality of order constituting Labour Court, Industrial Court or Board :-

No order of the State Government appointing any person as a Presiding Officer, an Additional Presiding Officer, President or Chairman or member of a Labour Court, the Industrial Court or a Board of Arbitration, as the case may be, shall be called in question in any court.

CHAPTER 3 Recognition of Representative Unions and Associations of Employers

13. Application for recognition as a Representative Union :-

(1) Any union may apply in the prescribed form to the Registrar for recognition as a representative Union in respect of any industry in a local area. Provided that the Registrar shall not entertain an application by a union, whose application for recognition as a representative union has been rejected by him unless a period of one year has elapsed from the date of such rejection.

(2) On receipt of such application and on payment of the prescribed fee the registrar shall hold an enquiry in such manner as may be prescribed and if he is satisfied that such union fulfills the conditions necessary for recognition specified in section 14, he shall enter the name of such union in the register maintained under section 15 and shall issue a certificate of recognition in such form as may be prescribed; Provided that-

(i) Where two or more unions fulfilling the conditions necessary for recognition apply for recognition in respect of the same industry in any local area in the same calendar month, the union having the largest membership of employees employed in the industry shall alone be recognized and no applications for recognition received in any subsequent calendar month shall be considered, until the applications received first in the earlier calendar month is disposed of by the Registrar.

(ii) the Registrar shall recognize any union if he is satisfied for reasons to be recorded in writing that the application for recognition is not made bona-fied in the interests of employer; months immediately preceding the date of the application for recognition or thereafter the union has instigated, aided or assisted the continuation of a strike or stoppage which has been held or declared to be illegal.]

14. Conditions of recognition-No, union shall be recognized as a Representative Union under this Act, unless :-

- i) membership of the union is open to every employee employed in the industry in the local area,
- (ii) the union has for the whole of the period of three months immediately preceding the month in which the application for recognition is made under section 13, a membership of not less than twenty five per centum of the total number of employees employed in the industry in such local area;
- (iii) the union has undertaken by a special resolution that it shall not sponsor, declare or support a strike until a ballot is taken and not less than two-thirds of the total members of the union vote in favour of the strike.

15. Registrar of Representative Unions :-

The Registrar shall maintain a register of Representative Unions recognized by him under this Act in such form as may be prescribed.

16. Cancellation of recognition :-

The Registrar shall cancel the recognition of union-

- (a) if the Industrial Court directs [under sub-section (3) of section 22 or section 69] that the recognition of such union shall be cancelled;
- (b) if after giving notice to such union to show cause why its recognition should not be cancelled on the grounds specified therein and after holding an enquiry in the prescribed manner he is satisfied
 - (i) that it was recognized under mistake, misrepresentation or fraud; or
 - (ii) that the membership of the union has for a continuous period of three months fallen below the minimum required under section 14

for its recognition, Provided that when strike or stoppage which is not illegal or a lock out or closure has extended to period exceeding fourteen days in any month, such month shall be excluded in computing the said period of three months Provided further that the recognition of a union shall not be cancelled under the provisions of this sub-clause unless its membership for the month in which the show cause notice under this section was issued was less than such minimum or

(ii-a) Omitted by Act No. 11 of 1980.

(iii) that the Representative Union is not being conducted bonafide in the interests of employees but in the interests of employers to the prejudice of the interests of employees, or

(iv) that the membership of such union is no longer open to all employees employed in the local area concerned and that the membership is refused to employees of such area on unsatisfactory or unreasonable grounds; or

(v) that the union has ceased to function according to its constitution; or

(vi) that it has instigated, aided or assisted the commencement or continuance of a strike or stoppage which has been held or declared to be illegal,

(vii) that it has sponsored, declared or supported a strike in violation of the provisions contained in clause (iii) of section 14;

(c) if its registration under the Indian Trade Unions Act 1926, (XVI of 1926) is cancelled.

17. (1) Recognition of another union in place of existing Representative Union :-

If any time any union makes an application to the Registrar for being recognized in place of the Union already recognized as the Representative Union for an industry in the local area on the ground that [it has a membership of fifty one per centum or more of the employees employed in such industry] the Registrar shall call upon the Representative union by a notice in writing accompanied by a copy of the application to show cause within one month of the receipt of such notice why the applicant union should not be recognized in its place. An application made under this sub-section shall be accompanied by such fee as may be prescribed; Provided that no application shall be entertained under this sub-section unless a period of two years has elapsed from the date of the issuance of certificate of recognition to the existing union under

sub-section (2) of section Provided further that the registrar shall not entertain any application from a union for recognition unless a period of one year has elapsed from the date of disposal of the previous application of that union;

(2) The Registrar shall forward to the Labour officer a copy of the said application and notice.

(3) If, on the expiry of the period of notice under sub-section (1), and after holding such inquiry as may be prescribed, the Registrar is satisfied that the applicant union complies with the conditions of recognition specified in section :4 and that [Its membership was, during the whole of the period of three months immediately preceding the date of the application under this section, not less than fifty one per centum of the employees employed in such industry in a local area, he shall, subject to the provisions of section 13, recognize the applicant union as the Representative Union for such industry in a local area.]

(4) On the recognition of the applicant union under sub-section (3), the recognition of the Representative Union shall stand cancelled.

18. Application for re-recognition :-

A union the recognition of which has been cancelled may, at any time after three months from the date of such cancellation and on payment of such fee as may be prescribed, apply for re-recognition. The provisions of section 13 and 14 shall apply in respect of such application;

Provided that a union the recognition of which has been cancelled on any ground other than

(i) a mistake; or

(ii) any ground specified in sub-clause (ii) [* *] of clause (b) of section 16; shall not be entitled to apply for recognition within six months of the cancellation.

19. Dismissal of certain application for want of prosecution :-

The Registrar may after giving fifteen days notice dismiss any application made under section 13,17 or 18, if he is satisfied that the applicant union has failed to pursue or prosecute the application diligently without any sufficient cause.

20. Liability of union or members not relieved by cancellation :-

Notwithstanding anything contained in any law for the time being in force the cancellation of the recognition of a Representative Union shall not relieve that union or any member thereof from any penalty or liability incurred under this Act prior to such cancellation.

21. Periodical returns to be submitted to Registrar :-

Every Representative Union shall submit to the Registrar on such dates and in such manner as may be prescribed, periodical returns of its membership.

22. Appeal to Industrial Court from order of Registrar cancelling recognition :-

(1) Any party to a proceeding before the Registrar may, within thirty days from the date of the communication of the order passed by the Registrar under this Chapter; appeal against such order to the Industrial Court.

Provided that the Industrial Court may, for sufficient reason, admit any appeal made after the expiry of such period.

(2) The Industrial Court may admit an appeal under sub-section (1) if on a perusal of the memorandum of appeal and the decision appealed against it finds that the decision is contrary to law or is otherwise erroneous.

(3) The Industrial Court in appeal may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit. A copy of the order passed by the Industrial Court shall be sent to the Registrar.

23. Legal aid to approved Union at Government expenses in important proceedings :-

(1) [An Approved union] entitled to appear under this Act :-

(a) before a Labour Court in a proceeding for determining whether a strike, lockout, stoppage, closure or change is illegal; or

(b) before the industrial Court in proceeding involving in the opinion of the Court an important question of law or fact; may apply to the Industrial Court for the grant of legal aid at the expenses of the State Government.

(2) Where [an approved union is a party to any case arising out of the proceedings under this Act, before the High Court or the Supreme Court, it may apply to the Industrial Court for the grant of

legal aid at the expense of the State Government for purpose of such case.]

(3) The Industrial Court may, after obtaining a report from the Registrar on the financial condition of the union, refuse the legal aid or grant it in accordance with rules framed under this Act.

24. Recognition of combination of employers as association of employers :-

The State Government may, from time to time, by notification-

(a) recognize any combination of employers in an industry whether incorporated or not as an association of employers for the purposes of this Act, provided that one of the objects of such combination is the regulation of condition of employment in the industry;

(b) withdraw any recognition granted under clause (a) [* *]
Provided that no recognition shall be withdrawn unless an opportunity has been given to such association of employers to be heard [on the grounds on which it is proposed to withdraw the recognition.

CHAPTER 4 Representatives of Employers and Employees and Appearance on their behalf

25. Appearance on behalf of employers :-

(1) In any proceeding under this Act, an association of employers shall be entitled to represent-

(a) any employer who is a member of the association;

(b) any employer connected with the same industry not being a member of the association, who has intimated in writing to the prescribed authority that he has agreed to be represented by the association in such proceeding; and any notice or intimation given by or to such association shall be deemed to have been given by or to every employer it is entitled to represent.

(2) Where more employers than one are affected or under any of the provisions of this Act deemed to be affected, and no association of employers is under sub-section (1) entitled to represent all of them, the representative determined in the prescribed manner shall be entitled to act as their representative.

26. Appearance on behalf of employees :-

Save as provided in section 28, no employee shall be allowed to appear or act in any proceeding under this Act except through the

representative of the employees.

27. Representation of employees :-

The following shall be entitled to act and appears in the order of preference specified below as the representative of employees in an industry in any local area-

- (i) A representative Union for such industry;
- (ii) any union of which the employee of such industry is a member;
- (iii) Labour Officer;

Provided that where the Labour Officer is the representative of employees he shall not enter into any agreement under section 33 or settlement under section 43 on their behalf unless the terms of such agreement or settlement, as the case may be are accepted by them in the prescribed manner; Provided further that where in the opinion of the State Government, the employees of the industry as a whole are deemed to be affected under section 32, the Labour Officer shall not enter into an agreement under this section except with previous approval in writing of the State Government.

28. Person who may appear in proceeding :-

A conciliator, an arbitrator, a Labour Court, the Industrial Court or a Board may, if he or it considers it expedient for the ends of justice, permit an individual, whether an employee or not, to appear in any proceeding before him or it [Proviso Omitted.]

29. Appearance by legal practitioner :-

(1) Save as provided in subsection (2), no legal practitioner shall be entitled to appear in proceeding under this Act.

(2) A legal practitioner may appear-

- (i) in any proceeding in connection with an offence under this Act,
- (ii) in any other proceedings before a Labour Court or the Industrial Court with the leave of the Court.

1. Omitted by M. P. Act No. 32 of 1963.

CHAPTER 5 Powers And Duties of Labour Officer

30. Powers and duties of Labour Officer :-

(1) A Labour Officer shall exercise the powers conferred and perform the duties imposed on him by or under this Act.

(2) For the purposes of exercising his powers or performing his

duties a Labour Officer may at any time during working hours, and out-side working hours after giving reasonable notice, enter and inspect-

(a) any place used for the purpose of or connected with any industry;

(b) any place used as the office of any union;

(c) any premises provided by an employer for the residence of his employees; and shall be entitled to call for inspection and take or ask for copies of all relevant documents which he may deem necessary for the due discharge of his duties and exercise of powers under this Act.

(3) All particulars contained in or information obtained from any document inspected or called for under sub-section (2), shall, if the person from whose possession the document was obtained so requires, be treated as confidential; Provided that a Labour Officer may disclose such information as may be necessary for the purpose of any proceedings [under this Act or under any other law for the time being in force.]

(4) A Labour Officer may, after giving reasonable notice, convene a meeting of employees for any of the purposes of this Act, on the premises where they are employed, and may require the employer to affix a written notice of the meeting at such conspicuous place in such premises as he may order and may also himself affix or cause to be affixed such notice. The notice shall specify the date, time and place of the meeting the employees or class of employees affected, and the purpose for which the meeting is convened.

(5) A Labour Officer shall be entitled to appear and plead in any proceeding under this Act.

(6) It shall be the duty of the Labour Officer-

(a) to watch the interests of employees and promote harmonious relations between employers and employees;

(b) to investigate the grievances of employees and represent employers such grievances and make recommendations to them in consultation with the employees concerned for their redress;

(c) to report to the State Government the existence of any industrial dispute of which no notice of change has been given, together with the names of the parties thereto; Provided that the Labour Officer shall not-

(i) appear in any proceeding in which the employees who are parties thereto are represented by a Representative Union;

(ii) omitted,

(iii) omitted.

(7) If an employer does not accept and implement the recommendations made by the Labour Officer under clause (b) of subsection (6) within a reasonable time, he shall communicate to the Labour Officer the reasons there for.

CHAPTER 6 Changes

31. Notice of change :-

(1) An employer intending to effect any change in respect of an industrial matter specified in Schedule-I shall give notice of such intention in the prescribed form and manner to the representative of employees and to such other persons as may be prescribed.

(2) A representative of employees desiring a change in respect of an industrial matter, which is neither covered by standing orders nor is specified in Schedule II, shall give notice thereof in the prescribed manner to the employer concerned and to such other persons as may be prescribed.

(3) A representative of employees or an employee desiring a change in respect of an industrial matter specified in Schedule-I or any other matter arising out of such change may make an application to the Labour Court in such manner as may be prescribed [omitted * * * *]

32. Notice of change when to be deemed general notice :-

Where an employer or a representative of employees gives a notice of a proposed change under sub-section (1) or sub-section (2) as the case may be, of section 31 and change, in the opinion of the Government affects the majority of employees or employers engaged in an industry in any local area, the Government may, by notification, declare that whole of such industry is affected by such change and : upon it shall be deemed to be so affected. Upon the publication of such notification the employer of every undertaking in such industry in the local area be deemed to have received the notice under subsection (2) of section

33. Agreements :-

(1) If in regard to a change proposed under sub-section (1) or (2) of section 31, an agreement is arrived at, a memorandum of such agreement shall be forwarded to the Registrar.

(2) On receipt of the memorandum of agreement signed by the parties under sub-section (1), the Registrar shall register the

agreement if it is arrived at (a) within seven days from the service of a notice under sub-section (1) or sub-section (2) of section 31, or within such further period as may be agreed upon by the parties, or

(b) [omitted]

(c) within two months from the completion of conciliation proceedings. Provided that the Registrar shall not register an agreement which on enquiry he is satisfied is in contravention of the provisions of this Act or was the result of mistake, misrepresentation, fraud, undue influence, coercion or threat.

(3) An appeal shall lie to the Industrial Court against an order of the Registrar refusing to register an agreement under sub-section (2). The provisions of section 22 shall apply to such appeal.

(4) An agreement registered under this section shall come into operation on the date specified therein or if no date is so specified on its being recorded by the Registrar.

34. Illegal change-An illegal change means- :-

(a) a change in any standing order made except in accordance with the provisions of the [Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 25 of 1961),]

(b) any change in any industrial matter mentioned in Schedule I made- (i) before giving a notice of change as required by the provisions of subsection (1) of section 31,

(ii) within the period [provided for in clause (a) of] sub-section (2) of section 33 unless an agreement is arrived at;

(iii) where no agreement is arrived at before the completion of the condition proceedings and during the period of ten days thereafter,

(iv) where no settlement is arrived at after two months from the date of the completion of the conciliation proceedings before the conciliator,

(v) in cases where there is a registered submission or in which the dispute has been referred to arbitration before the date on which the award comes into operation.

(c) any change in contravention of the terms of a registered agreement, settlement or effective award;

(d) failure to carry out the terms of a registered agreement or settlement, or an order, decision or award under this Act.

35. Employer to make change etc. within certain time :-

An employer required under the terms of any effective decision or

order of a Labour Court, the Industrial Court, or a Board to carry out a change or withdraw an illegal change, shall comply with such requirement within such time as the Court or the Board giving or making the decision or order specifies and where no time is specified by it within seventy two hours of the communication of the decision or order.

CHAPTER 7 Joint Consultation

36. Constitution of Joint Committees :-

(1) Where there is a Representative Union a Joint Committee may be constituted in an undertaking in the prescribed manner with the consent of the employer and the Representative Union for the industry for the local area.

(2) Where there is no Representative Union a Joint Committee may be constituted in an undertaking in the manner prescribed, if so required by the Government.

37. Duties of the Joint Committees :-

It shall be the duty of the Joint Committees to promote measures for securing amity and good relations between the employer and employees and to that end to consult on matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters Provided that matters in Schedule I shall be outside the purview of this committee.

38. Procedure of Joint Committee :-

The Joint Committee shall function in the manner prescribed in this behalf

CHAPTER 8 Conciliation Proceedings

39. Report of dispute :-

(1) If any proposed change in respect of which notice is given under [sub-section (1) and (2) of] section 31 is objected to by representative of employees or the employer; as the case may be, the party who gave such notice shall, if it still desires that the change should be effected, forward to the Conciliator for the local area for the industry concerned and to the other authorities and in such form and in such manner as may be prescribed, a full

statement of the case within fifteen days from the date of service of such notice on the other part or within one week of the expiry of the period fixed both the parties under clause (a) of sub-section (2) of section 33 for arriving an agreement.

(2) When a notification is issued under section 32 in respect of such change, any employer or employee in the industry may, within seven days from the date of publication of such notification forward such statement to the said officer. Explanation-For the purposes of this section a change shall be deemed to be objected by the representative of employees or the employer; as the case may be, if within seven days from the date of service of such notice or within the period fixed by both the parties under clause (a) of subsection (2) of section 33 for arriving at an agreement, a memorandum of agreement has not been forwarded to the Registrar under the said subsection.

40. Commencement of conciliation proceedings :-

On receipt of the statement of the case under section 39, the Conciliator shall, except in a case in which by reason of the provisions of section 47 a conciliation proceeding cannot be commenced, within a week enter the industrial dispute in the register kept for the purpose and thereupon the conciliation proceeding shall be deemed to have commenced from the date of such entry in the register; which date shall communicated by him to the parties concerned.

41. Conciliation proceeding :-

It shall be the duty of the Conciliator to endeavor to bring about the settlement of the industrial dispute and for this purpose the Conciliator shall enquire into the dispute and all matters affecting merits thereof and may do all such things as he thinks fit for the purpose of persuading the parties to come to a fair and amicable settlement of the dispute and may, subject to the provisions of section 45, adjourn the conciliation proceeding form any period sufficient in his opinion to allow the parties to arrive at a settlement [or for any other reason.]

42. Power of Chief Conciliator to intervene :-

(1) The Chief Conciliator may intervene or direct any Conciliator to intervene at any stage in any conciliation proceeding held by

another Conciliator, and thereafter the Chief Conciliator or the Conciliator so directed shall hold the conciliation proceeding with or without the assistance of the Conciliator.

(2) The Chief Conciliator may from time to time issue such directions as he deems fit to any Conciliator at any stage of a conciliation proceeding. He may also intervene in the conciliation proceeding before any other conciliator to assist such conciliation.

43. Settlement and report :-

(1) If a settlement of an industrial dispute is arrived at in a conciliation proceeding, a memorandum of such settlement shall be drawn up in the prescribed form by the Conciliator and signed by the employer and the representative of employees. The Conciliator shall send a report of the proceedings along with a copy of the memorandum of settlement to the Registrar and the Chief Conciliator. The Registrar shall record such settlement in the register of settlement and intimate to the parties the date on which it is so recorded. The change, if any, agreed to by such settlement shall come into operation from the date agreed upon in such settlement and where no such date is agreed upon from the date on which it is recorded in the register.

(2) If no such settlement is arrived at, the Conciliator shall, as soon as possible after the close of the proceeding before him, send a fit in report to the Chief Conciliator stating the steps taken by him for ascertaining the facts and circumstances relating to the dispute and the reasons on account of which, in his opinion, settlement could not be arrived at.

(3) The Chief Conciliator shall forward the report submitted to him under sub-section (2), or if he is himself the Conciliator his report to the Government with such remarks as he deems fit.

(4) Notwithstanding anything contained, in this section where an industrial dispute is settled in regard to some of the industrial matters included therein and has not been settled in regard to others and the parties agree in writing that the settlement shall take place in regard to the industrial matters so settled the settlement of the said industrial matter shall be registered and a report of the industrial matters not settled shall be sent in accordance with the provisions of this section.

(5) The Government shall notify in the Gazette that no settlement was arrived at in the dispute, in its entirety or as the case may be as regards the industrial matters specified in the notification.

(6) Before the close of the proceeding before him the Conciliator shall ascertain from the parties whether they are willing to submit the dispute to arbitration and make a note to that effect in his report under subsection (2).

(7)(a) Notwithstanding anything contained in the foregoing subsections, if at any stage of a conciliation proceeding the parties agree in writing to submit the dispute to arbitration, the agreement shall be deemed to submission within the meaning of section 49.

(b) Where the agreement provides for arbitration either by an arbitrator or by a Labour Court, or by the Industrial Court or by a Board, the Conciliator shall forthwith refer the dispute to the arbitrator or a Labour Court or the Industrial Court or submit it to the State Government for reference to a Board, the case may be.

(c) Where the agreement provides for arbitration without an arbitrator being named therein the conciliator shall forthwith submit the dispute to the state Government for giving directions under the proviso to sub-section of section 49.

44. Procedure and powers of Conciliator :-

(1) The proceeding before a Conciliator shall be held in camera.

(2) If a party to an industrial dispute or a witness or any other on giving any information or producing any document in a conciliation proceeding makes a request in writing to the Conciliator that such information or the contents of such document be treated as confidential, Conciliator shall direct that such information or document be treated as confidential; Provided that the Conciliator may permit the information or the contents of the document to be disclose to the other party.

(3) Save as provided in sub-section (2), a Conciliator or any person present at or concerned in the conciliation proceeding shall not disclose any information or the contents of any document in respect of which a request been made under sub-section (2) without the consent in writing of the party making the request under the said sub-section.

(4) Nothing in this section shall apply to the disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or any other law for the time being in force.

(5) The Conciliator shall have the powers as are vested in a Civil at under the Code of Civil Procedure, 1908 (V of 1908) in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of any person;
- (b) examining any person; provided that such examination shall not be on oath;
- (c) compelling the production of documents and material objects; and
- (d) such other matters as may be prescribed.]

45. Time limit for conciliation proceedings :-

A conciliator shall conclude his proceedings within one month from the date of its commencement under section 40 or such further period as both the parties may agree to;

Provided that in computing the period of one month under this section, the period during which the proceedings remained adjourned with the consent of both the parties, shall be excluded.

46. Completion of conciliation proceeding :-

A conciliation proceeding shall be deemed to have been completed-

(i) when a memorandum of the settlement arrived at in such proceeding is signed by the parties under sub-section (1) of section 43; or

(ii) when the parties agree in writing to submit the dispute to arbitration, or

(iii) if no settlement is arrived at when the notification under sub-section (5) of section 43 is published; or

(iv) when the time limit fixed for the completion of such proceeding under section 45 has expired.

Explanation- When an industrial dispute is settled in regard to some of the industrial matters included therein, the conciliation proceeding in regard to those matters only shall be deemed to have been completed within the meaning of this section.

47. Conciliation proceedings, not be commenced or continued in certain cases :-

No conciliation proceeding in respect of an industrial dispute shall-

(a) be commenced if-

(i) the representative of employees directly effected by the dispute [* *] is a party to a submission relating to such dispute or a dispute relating to an industrial matter similar to that regarding which the dispute has arisen;

(ii) it has been referred to arbitration under the provisions of

section 51 or 52,

(iii) by reason of a direction issued under sub-section (2) of section 97 or by reason of any of the other provisions of this Act the employers and employees concerned are in respect of the dispute bound by a registered agreement, settlement, submission or award.

(b) be continued after the date on which (ii) the dispute is referred to arbitration under section 51 or 52,

(iii) the direction referred to in sub-clause (iii) of clause (a) is issued.

48. Conciliation proceeding discontinued deemed to be completed :-

A conciliation proceeding which is discontinued under clause (b) of section 47 shall be deemed to have been completed on the date referred to in the said clause, and the provisions of section 43 with regard to the submission and forwarding of report shall apply to such conciliation proceeding.

CHAPTER 9 Arbitration

49. Submission :-

(1) Any employer and a Representative Union or where there is no Representative Union a representative of employee may, by a written agreement, agree to submit any present or future industrial dispute to the arbitration of a Labour Court, the Industrial Court, a Board or any other person, or to arbitration without any arbitrator being named therein.

(2) Such agreement shall be called a submission and a copy of every such submission shall be sent to the Registrar who shall record it in the register maintained for the purpose and inform the parties of the date of registration; Provided that if no person is named in the submission the arbitrator shall be the Labour Court, the Industrial Court or a Board as the Government may direct.

50. Submission when revocable :-

(1) Every submission, shall in the absence of any provision to the contrary contained therein, be irrevocable; Provided that a submission to refer future disputes to arbitration may at any time be revoked by any of the parties to such submission by giving the other party six months notice in writing; Provided further that before the expiry of the said period of six months the parties may

agree to continue the submission for such further period as may be agreed upon between them.

(2) [Omitted.]

51. Reference of disputes to Labour Court, Industrial Court or Board :-

(1) Notwithstanding anything contained in this Act, the Government * if on a report made by the Labour Officer or otherwise it is satisfied that an industrial dispute exists, and-

(a) it is not likely to be settled by other means; or

(b) by reason of the continuance of the dispute-

(i) a serious outbreak or disorder or breach of the public peace is likely to occur, or

(ii) serious or prolonged hardship to a large section of the community is likely to be caused, or

(iii) the industry concerned is likely to be seriously affected or the prospects and scope of employment therein curtailed; or

(c) it is necessary in the public interest to do so; refer the dispute or any matter appearing to be connected with or relevant to the dispute for arbitration to a Labour Court or the Industrial court or a Board;

Provided that-

(i) no reference under this section shall be made to a Board referring the matter to parties and obtaining consent in writing of one of the parties to the dispute; and

(ii) no reference shall be made to a Labour Court under this section if the matter in dispute is included in Schedule I or if the dispute is between employees and employees.

(2) A copy of the report sent by conciliator under sub-section (2) if section 43 and forwarded by the Chief Conciliator to the State government under sub-section (3) of the said section shall also be made available to the Labour Court, or the Industrial Court or the Board, as the case may be, before it proceeds to deal with the reference under subsection (1)

52. Reference to arbitration by unions :-

(1) Notwithstanding anything contained in this Act, a Representative Union may refer in the prescribed manner any industrial dispute for arbitration to a Board or the Industrial Court, if it relates the matters in Schedule I or otherwise to a Labour Court; Provided that no such dispute shall be referred-

- (i) after two months from the date of completion of the proceedings before the Conciliator;
 - (ii) where the employer has offered in writing before the Conciliator to submit the dispute to the arbitration under this Act and the union has not agreed to do so;
 - (iii) unless the dispute is first submitted to the Conciliator and the conciliation proceedings are completed or the Conciliator certifies that the dispute is not capable of being settled by conciliation.
- (2) A copy of the reference made under sub-section (1) shall also be forwarded to the State Government, the Labour Commissioner and the Conciliator having jurisdiction, as early as possible.

52A. Power of State Government to include other undertakings in reference :-

Where an industrial dispute concerning any undertaking in an industry or branch thereof has been or is to be referred to a Labour Court, the Industrial Court or a Board under Section 51 or section 52, and the State government is of opinion that the dispute is of such nature that any other undertaking, group or class of undertakings of similar nature in that industry or any branch thereof is likely to be interested in or affected by such dispute, the State Government may-

- (a) in the case of a reference under section 51 at the time of making such reference or at any time thereof, or
- (b) in the case of a reference under section 52 at any time after such a reference has been made, but before the award is made include in that reference such undertakings, group or class of undertakings whether or not at the time of such inclusion any dispute exists or is apprehended in that undertaking, group or class of undertakings.

53. Bar of application of Arbitration Act of 1940 :-

Nothing in the arbitration Act, 1940 (X of 1940) shall apply to arbitration under this Chapter.

54. Procedure of arbitration proceeding :-

Subject to the provisions of this Act and the rules framed there under in this behalf; an arbitrator, a Labour Court, the Industrial Court or a Board shall follow such procedure in arbitration proceedings as it may think fit.

55. Arbitration to be concluded expeditiously :-

Where an Industrial dispute has been referred to any Arbitrator, Labour Court, Industrial Court or a Board, it shall hold its proceedings expeditiously and give its award as soon as practicable.

56. Award by arbitrator :-

The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.

57. Chairman to decide in case of disagreement :-

Where members of a Board are unable to agree as to their award the matter shall be decided by the Chairman acting as Umpire.

58. Awards :-

(1) The Arbitrator, Labour Court, Industrial Court or a Board shall forward copies of the award made by him or it to the parties, the Registrar, the Commissioner of Labour and the State Government.

(2) On receipt of such award, the Registrar shall enter it in the register kept for the purpose and shall inform the parties of the date of registration.

(3) Every award shall be published in the manner as may be prescribed.

(4) The arbitration proceeding shall be deemed to have been completed on the date of the publication of the award under sub-section (3).

(5) An award published under sub-section (3) shall be final and shall not be called in question by any Court in any manner whatsoever.

59. Commencement of Award :-

The award shall become enforceable on the date specified therein this behalf or if no such date is specified on the expiry of three days from the date of its publication under sub-section (3) of section 58.

60. Award on whom binding :-

All award of an arbitrator, a Labour Court, the Industrial Court or a Board shall be binding on-

- (a) all parties in the industrial dispute;
- (b) all parties who were summoned to appear as parties to the dispute whether they appeared or not;
- (c) in the case of an employer who is a party to the arbitration proceeding the successors-in-interest, heirs and assignees in respect of the undertaking to which the dispute relates; -
- (d) in the case of a representative Union, any other union or the Labour Officer who is party to a dispute, all persons represented by it, [on the date of the award, as well as thereafter.]

CHAPTER 10 Powers and Duties of Labour Courts, Industrial Court or Board of Arbitration and Certain other matters

61. Powers of Labour Court :-

In addition to powers conferred under the provisions of this Act, a Labour Court shall have power to-

(A) decide-

(a) disputes regarding which application has been made to it under subsection (3) of section 31 of the Act;

(b) industrial disputes-

(i) referred to it under section 51 or 52;

(ii) in respect of which it is appointed as the Arbitrator by a submission;

(c) whether a strike, lock-out, stoppage, closure or any change is illegal under this Act;

(B) require any employer-

(a) to withdraw any change or lock-out, which is held by it to be illegal; or

(b) to carry out any change provided such change is a matter in issue in any proceeding before it under this Act;

(C) require any employee to withdraw a strike which is held by it to be illegal;

(D) [try offence punishable under this Act and the Acts specified schedule II-A] and where the payment of compensation on conviction for an offence is provided for, determine the compensation and its payment. (2) For the purposes of deciding a dispute under paragraph (A) and (B) of sub-section shall be lawful for the Labour Court to determine questions of fact relevant dispute.

(3) Notwithstanding anything contained in the Code of Criminal procedure, 1973(No. 2 of 1974) or any other law for the time being in every offence punishable under this Act and the Acts specified in

schedule II-A, shall be tried by the Labour Court within the local limits of the jurisdiction in which it was committed

62. Commencement of proceedings :-

Proceedings before a Labour Court shall be commenced-

(1) in respect of a dispute falling under clause (a) of paragraph (A) of subsection (1) of Section 61 within two years from the date of the dispute; Provided that-

(a) if the dispute is connected with the termination of the services of an employee, such proceedings shall commence within a year from the date of termination of the services of the concerned employee;

(b) nothing contained in the foregoing provision shall apply if the concerned employee had made an approach before the 30th day of July, 76 in accordance with the provisions contained in sub-section (3) of section 31 as it stood before the said date and in that case the provisions contained in sub-section (3) of section 31 and clause (1) of this section shall be applicable as they had been before the said date;

(c) Where an employee has preferred an appeal or representation against an order of termination under any rule, regulation or standing orders to the competent authority within the period prescribed for such appeal or representation or where no such period is prescribed within three months of the order of termination, such proceedings may be commenced within one year from the date of the disposal of the appeal or representation, as the case may be.

(2) in respect of matters specified in clause (c) of paragraph (A) of subsection (1) of section 61, within three months of the commencement of the strike, lockout, stoppage, closure or of the making of the change on an application made by the employer, the representative of employees, any employee directly affected thereby or by Labour Officer; Provided that the Labour Court may, for sufficient reasons, admit any application for a declaration that a change is illegal under the Act, after the expiry of three months from the date on which such change was made.

63. Cognizance of offence :-

No Labour Court shall take cognizance of any offence-

(a) punishable under this Act, except on complaint in writing made by the person affected thereby or the representative of employee

or the employer or on a report in writing of the Labour Officer;
(b) punishable under any of the Acts specified in Schedule II-A except in accordance with the provisions of the respective Acts.

64. Power of Labour Court and Industrial Court in respect of criminal case :-

(1) In respect of offences punishable under this Act or any of specified in Schedule n-A, a Labour Court shall have all the powers Code of Criminal Procedure, 1973 (No. 2 of 1974) of a Judicial Magistrate of the First Class and in the trial of every such offence shall follow the procedure laid down in Chapter XXI of the said Code for summary trial and the rest of such provisions of the Code shall, so far as may be, apply to the trial.

(2) In respect of offences punishable under this Act or any of the specified in Schedule II-A, the Industrial Court shall have all the powers of the High Court under the Code of Criminal Procedure, 1973 (No. 2 of 1974).

64A. Saving of inherent powers of Industrial Court and Labour Court :-

Nothing in this Act shall be deemed to limit or otherwise affect the inherent powers of the Industrial Court and the Labour Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of these Courts.]

65. Appeal :-

(1) Notwithstanding anything contained in the Act, as appeal of shall lie to the Industrial Court-

(a) against a final decision of a Labour Court in respect of a matter falling under clause

(a) of paragraph (A) or paragraph (B) or paragraph (C) of sub-section (1) of section 61 by the person affected or the representative of employees or the employer;

(b) against a conviction by a Labour Court, by the person convicted.

(c) against the acquittal by a Labour Court, by the State Government;

(d) for enhancement of sentence awarded by a Labour Court, by the State Government. Provided that no appeal shall lie against an order of a Labour Court under section 107.

(2) every appeal shall be made within thirty days from the date of the decision, conviction, acquittal or sentence, as the case may be. Provided that in computing the period of thirty days the period requisite for obtaining a copy of the order appealed against shall be excluded.

Provided further that the Industrial Court may for sufficient reason, any appeal made after the expiry of such period.

(3) Where in any case a Labour Court, by its order directs reinstatement of any employee and the employer prefers an appeal before the Industrial Court against such order, or any proceedings against the order of the Industrial Court in the High Court or the Supreme Court as the case may be employer shall be liable to pay such employee during the period of tendency of such appeal in the Industrial Court or such proceedings in High Court or the Supreme Court, as the case may be, full wages last drawn by him, inclusive of maintenance allowance admissible to him under any rule if the employee had been employed in any establishment during such period and an affidavit by h employee had been filed to that effect in such Court. Provided that where it is proved to the satisfaction of the Industrial art or the High Court or the Supreme Court as the case may be, that h employee had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order no wages shall be payable under this section for such period or part, he case may be.

Explanation-In this section, the expression average pay shall have meaning assigned to it in clause (aa) of section 2 of the Industrial Dispute Act, 1947 (XIV of 1947).

66. XXX XXX XXX :-

67. Powers of superintendence of Industrial Court :-

The Industrial Court shall, in respect of all matters subject to its appellate or revisional jurisdiction have superintendence over Labour Courts constituted under this Act and may call for returns in respect thereof.

68. Duties of Industrial Court :-

The Industrial Court shall decide appeals and disputes and other matters referred to it under this Act or the rules made there under.

69. Cancellation of recognition of Unions :-

If in any proceeding it appears to the Industrial Court that any Union was recognized as a Representative Union by reason of a mistake, misrepresentation or fraud, or that it has contravened any of the provisions of the Act, the Industrial Court may, after giving such reasonable opportunity of being heard and after such enquiry as it may deem fit, direct that the recognition of such union shall be cancelled.

70. Reference on point of Law or interpretation of Act and rules :-

(1) A civil or criminal court may refer any matter or any issue in any suit, criminal prosecution or other proceedings before it relating to an industrial dispute to the Industrial Court for its decision. Any order passed by such Court in such suit, prosecution or proceeding shall be in accordance with such decision.

(2) The State Government may refer to the Industrial Court any point of law arising in any proceedings held under this Act. The Industrial Court shall not decide any such reference save in open Court and with the concurrence of a majority of the members of the Court present at the hearing of the reference.

(3) The commissioner of Labour may refer any question relating to the interpretation of this Act or the rules made under this Act to the Industrial Court for its decision.

(4) The Labour Court may refer to the Industrial Court any point of law arising in any proceedings held under this Act for its decision. An order to be passed by such Court shall be in accordance with the decision of the Industrial Court.

(5) The Industrial Court may refer to the High Court any point of law arising in any proceedings held under this Act for its decision. An order to be passed by such Court shall be in accordance with the decision of the High Court.]

71. Review :-

A Labour Court, the Industrial Court or a Board may, either on its own motion or on the application of any party to a case decided by it, review its order, decision or award in such case and pass such order in reference thereto as it thinks fit. provided that-

(i) no order, decision or award shall be varied or reversed unless notice has been given to the parties to the case to appear and be heard in respect of such order, decision or award;

(ii) no order, decision or award which is the subject of any revision

proceeding shall be reviewed;

(iii) no order or decision in respect of an offence under this Act shall be reviewed;

(iv) no application for the review of any order, decision or award shall be entertained unless it is made within thirty days from the date of such order, decision or award;

(v) no order, decision or award shall be reviewed except on the grounds provided for in Order XLVII of the Code of Civil Procedure, 1908 (V of 1908).

72. Procedure before a Labour Court, the Industrial Court or a Board :-

Subject to the provisions of section 64 and the rules framed under this a Labour Court, the Industrial Court, or a Board shall in proceedings before it, follow such procedure as it may think fit.

73. Power of authority to summon witnesses etc :-

(1) For the purpose of holding an enquiry or proceeding under this Act, the Registrar, Labour Court, the Industrial Court, a Board and a Court of Enquiry shall have the same powers as are vested in Civil Courts under the Code of Civil procedure , 1908 (V of 1908), in respect of-

(a) proof of facts by affidavits,

(b) summoning and enforcing the attendance of any person and examining him on oath,

(c) compelling the production of documents;

(d) issuing commission for the examination of witnesses; and

(e) such other matters as may be prescribed,

(2) For the purpose of obtaining the information necessary for compelling and maintaining the record under Chapter XV the officer under section 95 shall have the power specified in clauses (b) and (c) of sub-section (1).

74. Appearance of officers of Government in any proceeding :-

The State Government may direct any officer to appear in any proceeding before a Labour Court, the Industrial Court or a Board by giving notice to such Court or Board and on such notice being given by such officer shall be entitled to appear in such proceeding.

75. Costs :-

A Labour Court and the Industrial Court shall have the power to direct by whom the whole or any part of costs of any proceeding before it shall be paid.

76. Proceeding before a Labour Court, etc. to be judicial proceeding :-

Every proceeding before a Labour Court, the Industrial Court and a Board shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code, 1860 (XLV of 1860).

77. Parties on whom orders of Board, etc. binding :-

An [order or decision] of a Labour Court, the Industrial Court or a Board shall be binding

- (a) all parties to the industrial dispute who appeared or were represented before it;
- (b) all parties who were summoned to appear as parties to the dispute whether they appeared or not, unless the Labour Court or the Industrial Court or the Board, as the case may be, is of the opinion that they were improperly made parties;
- (c) in the case of an employer who is a party to the proceeding before such Court or Board in respect of the undertaking to which the dispute relates, his successors, heirs or assignees in respect of such undertaking; and
- (d) in the case of a representative of employees, which is party to the proceeding before such Court or Board, all persons represented by it on the date of the [Order or decision] as well as thereafter.

78. Finality of decisions :-

No order, decision [or award of an arbitrator, Labour Court,] the Industrial Court or a Board shall be called in question in any civil or criminal court.

78A. Execution of award etc. by Labour Court or the Industrial Court :-

- (1) Every award or determination or decision of a Labour Court or the industrial Court shall be executed by the authority which made it, in such manner as may be prescribed.
- (2) Every award of an Arbitrator other than a Labour Court or the

industrial Court or an agreement arrived at under section 33 or a settlement at under section 43 shall be executed by the Labour Court in the same manner as if it were an award made by such Labour Court.

78B. Time limit for disposal of cases by Labour Court etc :-

(1) The Labour Court or the Industrial Court shall pronounce its award or decision ordinarily within a period of one hundred and eighty days from the date on which the application is made or the dispute is referred to it.

(2) The Industrial Court shall pronounce its decision in an appeal ordinarily within a period of ninety days from the date on which appeal is made to it.

(3) Where the Labour Court or the Industrial Court is unable to make its award or pronounce its decision within the period specified in sub-section (1) or sub-section (2), as the case may be, it shall record the reasons therefore

CHAPTER 11 Court of Enquiry

79. Court of Enquiry constitution, powers and duties of :-

(1) The State Government may constitute one or more Courts of Enquiry consisting of such number of persons as the State Government may think fit.

(2) The Court of Enquiry shall enquire into the causes and circumstances of such industrial matters of disputes or matters related to terms of employment, as may be referred to it, by the State Government including any matter pertaining to condition of work or relations between employers and employees in any industry or issues in dispute between them.

(3) Every proceeding before a Court of Enquiry shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code, 1860, (XLV of 1860).

(4) Any report of a Court of Enquiry including the minutes of dissent, if any, recorded by a minority shall be laid, as soon as may be possible, before the Legislative Assembly of the State.

CHAPTER 12 Illegal Strikes and Lockouts

80. Illegal strikes and lock-outs :-

A lock-out or strike shall be illegal if it is commenced or continued-

- (a) in cases where it relates to an industrial matter specified in Schedule II or regulated by any standing order for the time being in force;
- (b) without giving notice in accordance with the provisions of section
- (c) in cases where notice of change is given in accordance with the provisions of section 31 and where no agreement in regard to such change is arrived at, before commencement of conciliation proceedings;
- (d) in cases where conciliation proceeding in regard to the industrial dispute to which the strike or lockout relates have commenced, the completion of such proceedings and during a period of fifteen days thereafter;
- (e) in cases where a conciliation proceeding in regard to any industrial dispute to which a strike or lock out relates has been completed at any time after the expiry of two months after the completion of such proceedings;
- (f) in cases where a submission relating to such dispute or such type of dispute is registered under section 49, before such submission is lawfully revoked;
- (g) in cases where an industrial dispute has been referred to arbitration of [an arbitrator,] a Labour Court, the Industrial Court or a Board before the date on which the arbitration proceedings are completed or the date on which award comes into operation whichever is later;
- (h) in contravention of the terms of a registered agreement or a settlement or an effective award.

81. Closure or stoppage of work in certain circumstances illegal :-

A closure or stoppage shall be illegal, if it is commenced or continued-

- (a) with the object of compelling the Central or State Government or any public servant to take or abstain from taking any particular course of action in regard to an industrial matter; where the Central or State Government is not an employer in the industry concerned; or
- (b) if such closure or stoppage is in support of or in sympathy with a lockout or a strike which is illegal under this Act or the Industrial Disputes Act, 1947 (XVI of 1947) or any other law for the time being in force, whether or not in the same industry or undertaking.

82. Reference to Industrial Court for declaration whether strike, closure or stoppage is illegal :-

(1) The State Government may make a reference to a Labour Court or the Industrial Court for a declaration proposed strike, lock-out, closure or stoppage will be illegal.

(2) declaration shall be made under this section save in open Court.

(3) The declaration made under sub-section (1) shall be recognized as A be followed in all proceedings under this Act.

CHAPTER 13 Protection of Employees

83. Employer not to dismiss, reduce or punish an employee :-

(1) No employer shall dismiss, discharge or reduce any employee or punish him in any other by reason of the circumstances that the employee-

(a) is an officer or member of a Representative Union or a Union which has applied for being recognized as a Representative Union under this Act; or

(b) is entitled to the benefit of a registered agreement or a settlement submission or award; or

(c) has appeared or intends to appear as a witness in, or has given evidence or intends to give evidence in proceeding under this Act or any other law for the time being in force or taken part in any capacity or in connection with a proceeding under this Act; or

(d) is an officer or a member of an organization the object of which is to secure better industrial conditions; or

(e) is an officer or member of an organization, which is not declare unlawful; or

(f) has taken part in any trade union activity which has not been held to be illegal, or

(g) has gone or joined a strike which has not been held by Labour Court or the Industrial Court to be illegal under the provisions of this Act.

(2) No employer shall prevent any employee from returning to work after a strike arising out of an industrial dispute which has not been held by Labour Court or the Industrial Court to be illegal unless-

(i) the employer has offered to refer the issue on which the employee has struck work to arbitration under this Act and the employee has refused arbitration; or

(ii) the employee, not having refused arbitration, has failed to offer

to resume work within one month of declaration by the Stat Government that the strike has ended.

84. Protection to employees in certain cases :-

(1) If after giving the employer a reasonable opportunity of being heard and after making such enquiry as may be deemed fit, it prima facie appears to the Labour Court trying an offence under section 86 that the services of the employee had been terminated in contravention of sub-section (1) of section 83, or in an industrial dispute relating to the discharge or dismissal of an employee referred to it for decision arbitration or adjudication, the court is prima facie satisfied, that the discharge or dismissal was not justified, the court may direct the employer at his option to reinstate the employee or pay to him till the final disposal of the case subsistence allowance which shall not be less than half the average pay of the employee with effect from the dates the court may determine:

provided that if the employer opts to pay to the employee subsistence allowance, the amount of such allowance may be adjusted by the employer towards the wages, if any, payable to the employee in respect of the period for which the subsistence allowance has been paid.

1) If in any case in which any order for reinstatement or for payment of subsistence allowance has been made under sub-section (1) ends in the conviction of the employer and the employer files an appeal against the order of eviction, he shall be liable to continue the employment of the employee or to pay him subsistence allowance, as the case may be until the appeal is finally disposed of unless the appellate court otherwise directs;

Provided that where no order under sub-section (1) has been passed by trial Court, the appellate Court shall be competent to make an order - section (1) with effect from a date not earlier than sixty days after the commencement of proceeding before the trial court to the same extent and in the manner as a Labour Court.

(3) if at any time after an order for grant of subsistence allowance under sub-section (1) or sub-section (2) has been made, the Court making the order, on an application made by the employer or otherwise, after giving the employee opportunity of being heard, finds that-

(i) the employee is responsible for avoidable delay in the disposal of the case; or

(ii) it is not desirable or proper to continue the subsistence allowance for any other sufficient cause, the Court may vacate or modify the order with effect from a specified date.

Explanation-In this section, the expression "average pay" shall have the meaning assigned to it in clause (a) or section 2 of the Industrial disputes Acts - 1947 (XIV of 1947).

85. Power of Court to order reinstatement etc :-

If the Court trying an offence under section 83, finds that the employee has been dismissed, discharged or reduced in contravention of the provisions of section 83, it may direct employee shall be reinstated forthwith or by such date as may be specified in the order.

CHAPTER 14 Penalties

86. Penalty for wrongful dismissal etc., of an employee :-

(1) Whoever contravenes the provisions of sub-section (1) or (2) of section 83 shall, on conviction, be punishable with fine which may extend to five thousand rupees.

(2) The Court trying an offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

(3) In any prosecution under this section the burden of proving that the dismissal, discharge, reduction or punishment of an employee by employer was not in contravention of the provisions of this section shall lie on the employer..,

87. Penalty for illegal lock-out or illegal closure :-

Any employer, who has commenced a lock-out or a closure which a Labour Court has declared to be illegal, shall on conviction, be punishable with fine which may extend to two thousand and five hundred rupees and in the case of the lock-out or the closure thousand and five hundred rupees and in the case of the lock-out or the.: closure as the case may be, being continued after lapse of forty-eight hours after, it has been held or declared to be illegal with an additional fine which may extend to five thousand rupees for every day during which such lock-out or closure continues after such conviction.

88. Penalty for commencing illegal strike or illegal stoppage

:-

Any employee, who has gone on strike or stoppage or who joins a strike or a stoppage, which a Labour Court or the Industrial Court has declared to be illegal shall, on conviction, be punishable with fine, which may extend to ten rupees and in the case of his continuing on strike or on stoppage, as the case may be after the lapse of forty-eight hours after it is declared to be illegal, with an additional fine which may extend to one rupee per day for every day during which such strike or stoppage continues after such conviction subject to a maximum of fifty rupees.

89. Penalty for instigating etc., illegal strikes, lock-outs, closure or stoppage :-

(1) Any person who instigates or incites others to take part in or otherwise acts in furtherance of a lock-out or a closure for which an employer is punishable under section 87 or a strike or a stoppage for which any employee is punishable under section 88 shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, fine or with both; Provided that no person shall be punished under this section, where the court trying the offence is of opinion that in the circumstances of the case a reasonable doubt existed at the time of the commission of the offence about the legality of the strike, lock-out, closure or stoppage, as the case may be.

Explanation I: For the purposes of this section, a person who contributes, collects, disburses or solicits funds for the purposes of any such strike, lock-out, closure or stoppage shall be deemed to act in furtherance therefore.

Explanation II: A person shall be deemed to have committed an offence under this section if before an illegal strike, lock-out, closure or stoppage has commenced, he has instigated or incited others to take part in or otherwise acted in furtherance of such strike, lock-out or stoppage.

(2) The offence under sub-section (1) shall be cognizable.

90. Penalty for disclosing confidential information :-

If a Conciliator or a Labour Officer or any person present at or concerned in any conciliation proceeding willfully discloses any information or the contents of any document contravention of the provisions of this Act, he shall, on conviction, on a complaint made

by the party who gave the information or produced the document proceeding be punishable with fine which may extend to one thousand rupees.

91. Penalty for illegal change :-

(1) Any employer who makes an illegal change shall, on conviction, be punishable with fine which may extend to five thousand rupees.

(2) Any employer who contravenes the provisions of section 35 shall, on, be punishable with imprisonment which may extend to three or every day on which the contravention continues with fine which may extend to five thousand rupees or with both.

(3) The Court convicting any person under sub-section (1) or (2) may direct such person to pay such compensation as it may determine to any employee directly adversely affected by the change in issue.

92. Penalty for obstructing persons from carrying out duties :-

Any person who wilfully refuses entry to a Labour Officer to any place which he is entitled to enter or fails to produce, any document which he is required to produce or fails to comply with any requisition or order issued to him by or under the provisions of this Act or the rules made there under, shall, on conviction, be punishable with fine which may extend to five hundred rupees.

93. Penalties for offences not provided for elsewhere :-

Whoever contravenes [any of the provisions of this Act or any rule made there under or of any order in writing given there under,] shall, on conviction if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees and in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder with fine which may extend to two hundred rupees.

CHAPTER 15 Record of Industrial Conditions

94. Record of industrial matters etc :-

The State Government may in respect of any industry-

(a) maintain in the prescribed manner a record of industrial matters

covered by the Schedules and standing orders

(b) require any employer or employers generally to maintain and submit copies of a record in such form as may be prescribed, of-

(i) date relating to plant, premises and manufacture,

(ii) other industrial transactions and dealings, which in the opinion of the State Government, are likely to affect the matters specified in clause (a).

95. Enquiry for verification of records :-

(1) For the purpose of verifying the accuracy of any records maintained by an employer under the provisions of section 94, an officer authorized by the State Government may, subject to the prescribed conditions, hold an enquiry and may require any person to, and such person thereupon shall, produce any relevant record or document in his possession and may after reasonable notice at any reasonable time enter any premises wherein he believes such record or document to be and may ask any question necessary for verifying such records;

Provided that where such premises are not the usual business premises of a person, such officer shall not without the previous permission of the State Government enter them under this subsection.

(2) Any proceeding held by him for the purposes of obtaining information for such record shall be deemed to be a judicial proceeding within the meaning of section 192 of the Indian Penal Code, 1860 (No. XLV of 1860)

CHAPTER 16 Miscellaneous

96. Amendment of Schedules :-

The State Government may, by notification, at any time, make any additions to or alterations in the industrial matters specified in Schedule I or II or delete therefrom any such matter;

Provided that before making any such addition, alteration or deletion a draft of such application alteration or deletion, shall be published in the Gazette for the information of all persons likely to be affected thereby and the State Government shall consider any objection or suggestion that may be received by it from any person with respect thereto within six weeks of such publication.

96A. Power to transfer proceeding :-

(1) The Industrial Court, may :is to be recorded in writing, transfer any proceedings under the Act, before a Labour Court for trial or disposal to another Labour Court competent to try or dispose of the same.

(2) The Labour Court to which the proceedings is transferred under a (1) may, subject to specific directions in the order of transfer, proceed o or from the stage at which it is transferred.

96B. Delegation of Powers :-

The State Government may, by notification direct that any power exercisable by it under this Act or the rules made there under, except the power to make rules shall, in relation to such d subject to such conditions, if any, as may be specified in the direction, able by such officer or authority subordinate to the State Government specified in the notification.

97. Agreements etc. on whom binding :-

(1) A registered agreement or settlement or a submission shall be binding upon all persons who are parties thereto; Provided that-

(a) in the case of an employer, who is a party to such an agreement, settlement or submission, his successors in interest, heirs or assigns in respect of the undertaking as regards which the agreement, settlement or submission is made, and

(b) in the case of any representative of employees which is a party to such agreement, settlement or submission all employees in the industry in the local area represented by it or him shall be bound by such an agreement, settlement or submission.

(2) In case in which a Representative Union is a party to a registered agreement or a settlement or submission the State Government may, after giving the parties affected an opportunity of being heard, by notification, direct that such agreement or submission shall be binding upon such other employers and employees in such industry in that local area as may be specified in the notification.

Provided that before giving a direction under this section, the State Government may, in such cases as it deems fit, make a reference to the Industrial Court for its opinion.

(3) A registered agreement entered into by the representatives of the majority of the employees affected or deemed to be affected under section 32 by a change shall bind all the employees so affected or deemed to be affected.

98. Order, decision or award to be in terms of agreement between employer and Representative Union :-

If any ,agreement is arrived at between an employer and a Representation Union who are parties to any industrial dispute pending before an arbitrator, Labour Court, the Industrial Court, or a Board, the order, decision or award in such proceeding shall be made in terms of such agreement unless the arbitrator, Labour Court, Industrial Court or the Board is satisfied that the agreement was in contravention of any of the provisions of this Act or the consent of either party to it was caused by mistake, misrepresentation, fraud, undue influence, coercion or threat.

99. Agreement etc., when to cease to have effect :-

(1) A registered agreement or a settlement or award shall cease to have effect on the date specified therein or if no such date is specified therein on the expiry of the period of two months from the date on which notice in writing to terminate such agreement, settlement or award, as the case may be, is given in the prescribed manner by any of the parties thereto to the other parties; Provided that no such notice shall be given till the expiry of [six months] after the agreement, settlement or award comes into operation.

(2) Nothing in this section shall prevent the terms of a registered agreement or a settlement or an award in terms of an agreement being changed or modified by mutual consent of the parties affected thereby and the registered agreement, settlement or award shall be deemed to be changed or modified accordingly.

(3)² [Omitted]

(4) The party giving notice under sub-section (1) ³[Omitted] shall send a copy of it to the Registrar and the Labour Officer of the local area concerned.

(5) If a registered agreement or a settlement or an award is terminated under sub-section (1) or if the terms of a registered agreement or a settlement or an award are changed or modified by mutual consent, notice of such termination, change or modification shall be given by the parties concerned to the Registrar and the Labour Officer. The Registrar shall enter the notice of such termination, change or modification in a register kept for the purpose. Explanation-For the purposes of this section, parties who shall be competent to terminate a registered agreement or a settlement or an award or to change or to modify the terms of a

registered agreement or a settlement or an award and who shall give notice of such termination, change or modification under sub-section (5) shall be the employer, who has signed the agreement or settlement or who is a party to the award or the heirs, successors or assigns of such employer in respect of the undertaking concerned and the - representative of the employees affected by the agreement, settlement or award.

100. Modification of award :-

(1) Any party who under the provisions of section 99 is entitled to give notice of the termination of an award may, instead of giving such notice, apply after the expiry of the period specified in sub-section (2), to a Labour Court, the Industrial Court or the Board making the award for its modification.

(2) Such application in the case of an award-

(a) which does not specify a date on which it shall cease to have effect shall not be made until the expiry of the period of two months, from the date on which notice can be given to terminate the award under section 99;

(b) [Omitted]

(3) On such application being made, the Labour Court, the Industrial it or the Board, as the case may be, after hearing the parties and taking evidence as it thinks fit, may modify the award with effect from such date not earlier than the date of application under sub-section (1), as it may specify.

(4) Where an application for the modification of an award under sub-section (1) is made, such application shall not in any way affect the binding of such award in regard to the matters determined therein until it is modified.

(5) Nothing in this section shall affect the right of any party to terminate award in accordance with the provisions of section 99.

101. Grant of copies of agreement, etc :-

Subject to the rules framed Act, the Registrar shall grant copies of all agreements, settlements and award registered by him and such other documents as may be prescribed on payment of the prescribed fee.

102. Liability of the executive of the Union :-

Where anything is be done by any union under this Act, the person

authorized in this executive of the union, and where no person is so authorized every : executive of the union shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation-For the purposes of this section, the executive of a union means the body by whatever name called to which the management of the affairs of the union is entrusted.

103. Certain officers to be public servants :-

The Registrar, an Assistant Registrar, a Conciliator, a Labour Officer, a Deputy Labour Officer, an Arbitrator, an Officer authorized under section 95, a Presiding Officer of a Labour Court, a member of the Industrial Court, the Board or a Court of Enquiry, and a member of the staff of any of the said Courts shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

104. Contempt of Board, Industrial Court, and Labour Court relating to omission to produce documents, etc :-

(1) If any person-

(a) when ordered by a Board, the Industrial Court or a Labour Court to produce or deliver up any document or to furnish any information being legally bound intentionally omits to do so; or

(b) when required by a Board, the Industrial Court or a Labour Court to bind himself by an oath or affirmation to state the truth refuses to do so; or

(c) being legally bound to state the truth on any subject to a Board or the Industrial Court or a Labour Court refuses to answer any question demanded of him touching such subject by such Court or Board; or

(d) intentionally offers any insult or causes interruption to a Board, the Industrial Court or a Labour Court, at any stage of its judicial proceeding; he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) If any person refused to sign any statement made by him, when required to do so by a Board, the Industrial Court or a Labour Court, he shall on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) If any offence under sub-section (1) or sub-section (2) is

committed in view or presence of the Industrial Court or a Labour Court, as the case may be shall proceed to try the same as if such Court were a Civil Court for purposes of sub-section (1) of section 345, section 346, and section 348 of the Code of Criminal Procedure, 1973 (No.2 of 1974).

section 345-- Procedure in certain cases of contempt :- (1) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (45 of 1860), is committed in the view or presence of any Civil, Criminal or Revenue Court, the court may cause the offender to be detained in custody and may, at any time before the rising of the court on the same day, take cognizance of the offence and after giving the offender a reasonable opportunity of showing why he should not be punished under this section, sentence the offender to fine not exceeding two hundred rupees, and in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such be sooner paid.

(2) In every such case the court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(3) If the offence is under section 228 of the Indian Penal Code (45 of 1860) record shall show the nature and stage of the judicial proceeding in which court interrupted or insulted was sitting and the nature of the interruption insult.

Section 346- Procedure where court considers that case should not be with under section 345-

(1) If the court in any case considers that a person accused of any of the offence referred to in section 345 and committed in its view or presence should imprison otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such court is for any other reason of opinion that the case should not be disposed of under 345, such court after recording the facts constituting the offence and of the accused as here in before provided may forward the case to a Magistrate having jurisdiction to try the same and may require security to be given for the appellant of such person before such Magistrate or if sufficient security is not given shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section shall proceed to deal with, as far as may be, as if it were instituted on a police Section 348- Discharge of offender on

submission of apology-- When any court has under section 345 adjudged an offender to punishment or has under section 346 forwarded him to a Magistrate for trial for refusing or omitting to do anything which was lawfully required to do or for any intentional insult or interruption, the court may in its discretion, is charge the offender or remit the punishment on his submission to the order or requisition of such court, or an apology being made to its satisfaction.

105. Other kinds of contempt of Board, Industrial Court and Labour Court :-

(1) If any person commits any act or published any writing which is calculated to improperly influence a Board, the Industrial Court or a Labour Court or to bring such Court, Board or a member or a presiding officer thereof into disrepute or contempt or to lower its or his authority or to interfere with the lawful process of any such Court or Board, such person shall be deemed to be guilty of contempt of such Court or Board, as the case may be.

(2) In the case of contempt of itself: the Board or the Industrial Court shall record the facts constituting such contempt and make a report in that behalf to the High Court.

(3) In the case of contempt of it, a Labour Court shall record the facts constituting such contempt and make a report in that behalf or the Industrial Court may, Wit considers it expedient to do so, forward the report to the High Court.

(4) When any intimation or report in respect of any contempt is received by the High Court under sub-section (2) or sub-section (3), the High Court shall deal with such contempt as Wit were contempt of a court subordinate to it and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice and it has and exercise in respect of such contempt.

106. Powers of Industrial Court, etc., to decide all matters :-

Notwithstanding anything contained in this Act, a Board, the Industrial Court, or a Labour Court, as the case may be shall have the power to decide all matters arising out of the Industrial matter or dispute referred to it for decision under any of the provision of this Act.

107. Powers of a Board Industrial Court etc. to pass interim orders :-

In any proceeding before it under this Act, a Board, the Industrial Court or a Labour Court may pass such interim orders including a prohibitory order or a stay order as it may consider just and proper.

107A. Power of Labour Court and Industrial Court to give relief in case of discharge or dismissal of employee :-

Where industrial dispute relating to the discharge or dismissal of an employee has been referred a Labour Court or the Industrial Court for decision under any of the provision of this Act and in the course of the proceedings the Labour Court or the industrial Court, as the case may be is satisfied that the order of discharge or dismissal is not justified, it may, set aside the order of discharge or dismissal reinstatement of the employee on such terms and conditions, if any, as it thinks fit or give such other relief to the employee including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of require; Provided that in any proceeding under this section the Labour Court or Court, as the case may be shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter]

108. Recovery of amount due under the Act :-

The amount of any fine imposed, any costs or back wages awarded or any compensation or subsistence allowance directed to be paid by any court under the Act shall be recoverable by the Labour Court in the manner provided for recovery of fine under the Code of Criminal Procedure, 1973 (No. 2 of 1974), as if it were Criminal Court.

109. Protection of action taken under the Act :-

No suit, prosecution or other legal proceeding shall lie against any person for anything which is it good faith done or purported to be done under this Act.

110. Saving of certain provisions of the Industrial Disputes Act :-

Except Chapters V-A, V-B and V-C and the other provisions with respect of layoff, retrenchment compensation special provisions

relating to lay-off, retrenchment and closure in certain establishment and unfair Labour practices] nothing in the Industrial Disputes Act, 1947 (No. XVI of 1947) shall apply to any industry to which this Act is applied; Provided that-

(a) any settlement arrived at or award made under the provision of the Industrial Disputes Act, 1947 (No. XVI of 1947) here in after it this section referred to as the Central Act) in respect of any industry to which before the date of application of this Act, the Central Act was applicable, shall be deemed to have been arrived at or made under the provisions of this Act, unless and until prescribed by any settlement or award arrived at or made under this Act;

(b) any proceedings pending on the date of application of this Act to an industry to which before such date the Central Act was applicable, shall be disposed of in accordance with the provisions of the Central Act.

111. Rules :-

(1) The State Government may, by notification, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following matters namely-

(a) the authority to be prescribed under sub-clause (c) of clause (14) of section 2; (a-i) the manner in which decision shall be given by a person specified under clause (i) of sub-section (7) of section 9 and fee, if any, payable to such person;

(b) (i) the manner in which the panel of members representing the interest of employers and employees shall be prepared under subsection (2) of section 11;

(ii) the authority to be prescribed and the time within which a panel shall be submitted, under sub-section (3) of section 11;

(iii) the manner in which the vacancies in the Board shall be filled under sub-section (5) of section 11;

(c) (i) the form of application under section 13;

(ii) the fee to be paid and the Form of Certificate of recognition to be issued under section 1;

(iii) the manner in which enquiry shall be held under sub-section (2) of section 13;

(d) the form in which the register of unions shall be maintained under section 15;

- (e) the manner of holding enquiry under clause (b) of section 16;
 - (f) the fee to be paid under sub section (1) and the manner of holding enquiry under sub-section (3) of section 17;
 - (g) the fee to be paid under section 18;
 - (h) the dates on which and the manner in which returns shall be submitted under section 21;
 - (i) the authority to be prescribed under clause (b) of sub-section (1) and the manner of determining the representative of employers under sub-section (2) of section 25;
 - (j) the form and the manner of given notice under sub-section (1) and (2) the person to whom the notice shall be given under sub-section (2) the manner of making an application under sub-section (3) the manner of approach and the period to be prescribed under provision to section 31;
 - (k) the manner in which the Joint Committee shall be constituted under section 36;
 - (l) the manner in which the Joint Committee shall function under section 38;
 - (m) the form and the manner in which the statement shall be forwarded under section 39;
 - (n) the form in which the memorandum of settlement shall be drawn under sub-section (1) of section 43;
 - (nn) other matters to be prescribed under clause (d) of sub-section (5) of section 44;
 - (o) the manner in which an industrial dispute shall be referred for arbitration under section 52;
 - (p) the prescription of procedure under section 72 to be followed by a Labour Court, the Industrial Court and a Board;
 - (q) other matters to be prescribed under sub-section (1) of section 73;
 - (qq) the manner in which any award, determination or decision of a Labour Court or the Industrial Court under section 78-A shall be executed;]
 - (r) the manner in which the record shall be maintained under section 94;
 - (s) the conditions to be prescribed under sub-section (1) of section 95;
 - (t) the manner of giving notice under section 99;
 - (u) prescription of other documents and the fees on payment of which copies shall be granted under section 101;
 - (v) any other matter which is required to be or may be prescribed.
- (3) The rules made under this section shall be subject to be

condition of previous publication in the Gazette.

112. Repeal and Savings :-

The Central Provinces and Berar Industrial Disputes Settlement Act, 1947 (XXIII of 1947) and the Madhya Bharat Industrial Relations (Adaptation) Act, Samvat 2006 (31 of 1949) are hereby repealed; Provided that-

(a) every appointment, order, rule, notification or notice made, issued or given under the provisions of the Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under the provisions of this Act, unless and until superseded by any appointment, order, rule, notification or notice made, issued or given under this Act;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed shall not be affected and any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability shall so far as it is not inconsistent with the provisions of this Act, be made, instituted or enforced as if the said Acts had not been repealed and continue in operation;

(c) any proceedings pending under the provisions of the Acts so repealed or any proceedings maintainable under the said Acts in pursuance of the provisions of clause (b) before a court or authority specified in column (1) of Schedule III shall, as the case may be stand transferred to or, be instituted in or before, the Court or authority specified in the corresponding entry in Column (2) thereof and shall thereupon be disposed of or proceeded with as if the said Acts had not been repealed and any penalty imposed in such proceedings shall be recovered under the Acts so repealed.

(d) any agreement or settlement recorded or registered, submission registered, awards made or orders passed by the State Industrial Court, the Industrial Court, a District Industrial Court or a Labour Court, under the provisions of the Acts so repealed shall be deemed to have been registered, recorded, made or passed by the appropriate authority under the corresponding provisions of this Act;

(e) any union registered for any local area as the Recognized Union or the Representative Union for any industry under the Acts so repealed shall be deemed to be recognized as the Representative Union for the industry and the local area concerned under section 13 of this Act.

