

Examrace

Competitive Exams Industrial Dispute

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How would you categories a dispute into an industrial dispute. Explain illegal strike and lockouts industrial dispute

Disagreement between an employer and its employees, usually represented by a trade union, over some aspect of the terms or conditions of employment. A dispute is often followed by industrial action, in the form of a strike or a work to rule.

A dispute arising from the negotiation of a new collective agreement or the revision of an existing agreement on expiry.

An industrial dispute must necessarily be a dispute in an industry. An industrial dispute has three ingredients

- There should be real and substantial dispute or difference.
- The dispute or difference must be between employers and or workmen.
- The dispute or difference must be connected with employment and non-employment, or with the conditions of labour of any person.

Categories of Disputes

The following dispute have been categorized as industrial dispute

- allegation of wrongful termination of service
- Compulsory retirement employee
- Claim for reinstatement of dismissed workmen.
- Dispute connected with minimum wages
- Dispute regarding payment to be made under production bonus scheme
- Claim for compensation for wrongful dismissal.
- Dispute regarding interpretation of standing orders
- Dispute relating to lock out or bona fide and genuine closure of business.
- Non implementation of award and claim for compensation payable by workmen to the employer for loss caused by strike
- Demand of an employee relating to his confirmation on a post holding in an acting capacity

strike and lockout are two coercive measures resorted to by the employees and the employers respectively, for compelling the employers or employees to accept their demands or conditions or services.

Strike (Industrial)

Stoppage of work by employees, often as members of a trade union, to obtain or resist change in wages, hours, or conditions.

Strikes may be 'official' (union-authorized) or 'wildcat' (undertaken spontaneously), and may be accompanied by a sit-in or work-in, the one being worker occupation of a factory and the other continuation of work in a plant the employer wishes to close. In a 'sympathetic' strike, action is in support of other workers on strike elsewhere, possibly in a different industry. A general strike is action by members of several key industries, that aims to halt a country's economic activity.

Illegal Strike

A strike called in violation of the law. Strikes are generally illegal when they occur as a result of a dispute over the interpretation of a collective agreement currently in force, when they occur before conciliation procedures have been complied with, or when certification proceedings are under way. If the strike is illegal, workmen are not only liable to those wages but are also liable to punishment by way of discharge or dismissal. Workers are however entitled to wages for a period of lock out which is illegal and unjustified. A lockout is a weapon of an employer to thwart or enforce such change by preventing employees from working. Another measure is work to rule, when production is virtually brought to a halt by the strict following of union rules.

Illegal Lockouts and Strikes

1. A strike or a lock-out shall be illegal if-
 - a. it is commenced or declared in contravention of section 22 or section 23; or
 - b. it is continued in contravention of an order made under sub-section 3 of section 10 1da-136 or sub-section 4A of section 10A
2. Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, an arbitrator, a Labour Court, Tribunal or National Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section 3 of section 10 or sub-section 4A of section 10A.
3. A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

