
IMPACT OF COLLECTIVE BARGAINING IN INDIA: REAL OR ILLUSION?

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ABSTRACT

“Where free unions and collective bargaining are forbidden, freedom is lost”

– Ronald Reagan.

The term Collective Bargaining is the process in which the labours are represented by the trade union negotiate with the employers over the terms of employment and working conditions. This collective bargaining is initiated with the intention to raise the voices to address the concerns of employees and fulfil their rights and demands regarding salaries, wages, increments, working hours and conditions etc. Conflicts are the inevitable segment in the arena of commerce and business, as it is unfeasible to adjudicate every single problem by the Court. Thus, Collective Bargaining emerged as the effective alternate industrial dispute resolution and brought revolution in Indian Industries for labour relations. This paper primarily focuses on the concept of collective bargaining, its evolvement. Secondly, the provisions that validating collective bargaining in India for attaining its fruitful benefits accompanied by the merits and demerit associated with the process of collective bargaining. And finally making a spectacle of the challenges entangled and recommending some suggestions to sort them out as a means to enhancement of collective bargaining.

Keywords: Negotiation, Employers, Employees, Industrial Disputes, Trade Union, Impacts, Fundamental Right.

INTRODUCTION:

Collective Bargaining is the bipartite process where the employers and employees sit together to discuss and resolve the dispute harmoniously by settlements. To understand the concept of Collective bargaining let us have a look on a short story. Once upon a time, there existed a Multinational Coffeehouse Company which is best known and quite familiar across the world for their coffees and beverages. The company provided numerous employments where the workers overworked for the best possible running of the company. Despite working hard for long hours, they were underappreciated, no increments in their salaries and wages. But the company was hogging with immense profits. Agitated by this, two employees thought their voices should be raised to change the situation. They gathered their co-workers and formed a union which aimed collective bargaining and addressed the concerns in relation to employment and company. After rounds of negotiations, an agreement was signed between them with noticeable improvements pertaining to salaries, wages, increments, working hours, working conditions, safety measures, job security, etc. Initiating all these improvements it never pulled downed the company rather the profits soared higher. This is the fruitful effect of Collective bargaining being advantageous for both sides of the coin.

OBJECTIVES OF THE STUDY:

- i. To critically analyse the concept of collective bargaining validated by several provisions of law in relevance to labour relations in India.
- ii. The impacts of collective bargaining and whether the impact is real or illusion?
- iii. The challenges involved and suggestions to enhance the effective implementation of collective bargaining.

RESEARCH METHODOLOGY:

This is a descriptive study based on primary and secondary data and facts from legislations, judgement, books, journals, articles as well as from websites. Analysis has been done with relevant facts and data to reach over some conclusions.

COLLECTIVE BARGAINING:

Article 2 of the Collective Bargaining Convention, 1981 (No.154) of the International

Labour Organisation states, “*collective bargaining extends to all negotiations which take place between an employer, a group of employers or one or more employers’ organisations, on the one hand, and one or more workers’ organisations, on the other, for*

- a) determining working conditions and terms of employment; and/or
- b) regulating relations between employers and workers; and/or
- c) regulating relations between employers or their organisations and workers or workers’ organisations.”^[1]

According to **Ludwing and Teller**, collective bargaining is “an agreement between a single employer or an association of employers on the one hand and labour union on the other hand which regulates terms and conditions of employment.”^[2]

In the case of **Karnal Leather Karamchari Sanghatan v. Liberty Footwear Co.**, the Supreme Court held that collective bargaining is a technique by which dispute between labour and capital are resolved amicably by agreement rather than by question.^[3]

ORIGIN:

Sydney Webb and Beatrice Webb coined the term Collective bargaining in “Treatise on the History of Trade Unions” in 1891. This movement traces its usage in Great Britain among coal mine workers in 1874. Further the labours were represented by the unions. The skilled labours of the union help the employees to negotiate with the employers to draft the contract fulfilling their needs and demands.

In India, it started around 1920 in Ahmedabad textile mills, thereby the union realised industrial disputes via courts was not effective. The collective bargaining agreement was first put forth by Dunlop Rubber Company in West Bengal in 1947. Followed by Bata Shoe Company in West Bengal. Later, Indian Aluminium Company made its five-year agreement with the employees’ union in Belur in 1951. Imperial Tobacco Company adopted this concept in 1952, then by 1955, many well-known companies like Tata Iron and Steel Company, Hindustan

¹ Collective Bargaining Convention. art 2, 1981(No.154)

² Teller, Labour Disputes and Collective Bargaining, Vol. 1, p. 476

³ Karnal Leather Karamchari Sanghatan v. Liberty Footwear Co., (1989)4 SCC 448 (India)

Lever, and many small companies too had started with this concept of collective bargaining. In 1978, Bharat Heavy Electricals Limited demonstrated by initiating workers' representation into play.^[4]

The process of collective bargaining was introduced by the Supreme Court in the landmark case of *Karnal Leather Karamchhari Sanghatan v. Liberty Footwear Co.*, held that the Industrial Disputes Act, 1947, was laid down for the purpose of securing social justice by means of collective bargaining.^[5]

PROVISIONS VALIDATING COLLECTIVE BARGAINING IN INDIA:

TRADE UNION ACT, 1926:

The Trade Union Act deals with the registration of the union that provides legal status to the unions and rights, obligations and immunities of the trade union which ultimately aims to regulate the labour relations with the company.

In *DN Banerjee v. PR Mukherjee*^[6] the court observed collective bargaining is based on the theory of Unity is Strength which is needed to raise voices about the concerns of labours.

INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946:

Standing Order is drafted by the employer which contains the conditions of employment^[7]. According to Sec 3 of the Act, first the employer needs to submit the draft standing order to the Certifying Officer which should be in conformity to the model standing order as far as possible^[8]. Then, the Officer forward the copy of the draft to the trade union or to the workmen, if there is no trade union for seeking objections and after giving both the parties an opportunity of being heard, the Officer shall certify the standing order with necessary modifications and shall send it copies to both the parties^[9]. framing of standing order is a kind of negotiation with

⁴ Dr. Punam Kumari, Collective Bargaining – An Overview, 7 IJSRST.1, 377 (2020)

⁵ Id 3

⁶ DN Banerjee v. PR Mukherjee, 1953 AIR 58 (India)

⁷ The Preamble of Industrial Employment (Standing Orders) Act, 1946 states “An Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions”

⁸ S. 3 of Industrial Employment (Standing Orders) Act, 1946, < <https://indiankanoon.org/doc/1512414/> >

⁹ S. 5 of Industrial Employment (Standing Orders) Act, 1946, < https://www.indiacode.nic.in/show-data?actid=AC_CEN_26_36_00011_00011_1523947846739§ionId=48835§ionno=5&orderno=5 >

the help of the third person i.e. Certifying Officer which implies the process of collective bargaining.

INDUSTRIAL DISPUTES ACT, 1947:

Sec 18 of Industrial Disputes Act states that a settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement. ^[10] This section permits settling industrial disputes via Collective bargaining.

In case of *Workmen of Dimakuchi Tea Estate v. The Management of Dimakuchi Tea Estate* ^[11], observed that the provisions of the Act objectifies the promotion of measures for securing and preserving amity and good relations between the employer and workmen, an investigation and settlement of industrial disputes, between employers and employers, employers and workmen, or workmen and workmen, with a right of representation by a registered trade union or federation of trade unions or association of employers or a federation of associations of employers and also collective bargaining. ^[12]

INDIAN CONSTITUTION, 1950:

Art 19 enumerates Fundamental Right to every Indian citizen to form associations which includes right to form trade union as well and Art 43A as the Directive Principles of State Policy, the state is permitted to make laws that encourage workers to take part in the management justifying the concept of collective bargaining. ^[13]

All India Bank Employees' Association v. National Industrial Tribunal, ^[14] here the Supreme Court dictated the rights of the members of the trade unions in accordance with the Fundamental Right to Freedom of speech and expression under Article 19(1)(c), and started the following to be the rights:

- i. The rights of the members of the union to meet,

¹⁰ S. 18 of Industrial Disputes Act, 1947, < <https://indiankanoon.org/doc/509428/#> >

¹¹ *Workmen of Dimakuchi Tea Estate v. The Management of Dimakuchi Tea Estate*, AIR 1958 SC 353 (India)

¹² Faisal Fasih, Collective bargaining in India, SSRN (2009)

¹³ INDIAN CONST. art. 19 & 43A, 1950

¹⁴ *All India Bank Employees' Association v. National Industrial Tribunal*, 1962 AIR 171 (India)

- ii. Then right of the members to travel or move from one place to another,
- iii. The right of the members to discuss and address their problems and share their point of view and opinions, and
- iv. The right of the members to hold property.

Further, this case also stated that strikes by trade unions may be controlled or restricted by appropriate industrial legislation.

COLLECTIVE BARGAINING - GLOBAL PERCEPTIVE:

USA: It has long been accepted in the United States that individual negotiating is more important than group bargaining. In this case, an individual's rights usually outweigh those of others. "The result is that unionism and collective bargaining often conflict with two legal principles: individual employee rights and employer property rights. With respect to individual employee rights, although unions have been granted some privileges to pursue collective interests, there are some constraints on union behaviour in circumstances in which such behaviour may be viewed as being inconsistent with individual rights, as U.S. labour policy attempts to find a balance between collective action and individual rights that is consistent with its values. Thus, on the collectively end of the continuum, a union, when chosen as the legal bargaining representative, represents all employees in the unit, and no employee may agree with the employer on terms and conditions of employment that are inconsistent with those on which the employer and the union have agreed."^[15] In the United States, the National Labour Relations Act (NLRA) protects the rights of most workers. Collective bargaining and labour practices are overseen by the National Labour Relations Board (NLRB), a government agency. In addition, this Board oversees union elections and makes sure that employees are not coerced into casting a particular ballot.

UK: The Trade Union and Labour Relations (Consolidation) Act, 1992, protects employees' rights to organise and engage in collective bargaining, even if there isn't a specific legislation governing collective bargaining in the UK.

¹⁵ Richard N. Block, *Collective Bargaining in Context*, pg.1-15

CHINA: In China, an employer and employees may sign into a "collective contract" in accordance with China's Labour Contract Law. This agreement has clauses covering the following subjects such as Compensation, Hours of Work, Social Security, to name a few. Trade unions have the authority to negotiate a contract on behalf of the workers with the company in such situations.

AIMS AND OBJECTIVES OF COLLECTIVE BARGAINING:

Fulfilment of required expectations: By terms of negotiations the management can legitimately fulfil the required expectations of the workers such as wages increment, job security. On the other hand, the management can increase its productivity, hence balancing the legitimate expectations. In other words, management's interest in planning production and in being protected against its interruption is the exact equivalent to the worker's interest in planning his and his family's life and in being protected against an interruption in his mode of existence, either through a fall of his real income or through the loss of his job. ^[16]

Sustain Equality: Collective Bargaining is a means to maintain equality between the worker and the workmen as the latter is at least advantageous position from the outset. The bargaining power of an individual worker is, often, quite weak because of factors like illiteracy, indebtedness, and socio-economic backwardness. Therefore, there is no match for the economically and consequently, political, superior employer. These expose the worker to exploitation, discrimination, and indignities. ^[17]

Improve Industrial Democracy: Trade Union seeks to improve industrial democracy. They have now come to symbolize: workers' right to organize, to put forth their demands collectively and to resort to industrial action, i.e.; strike, when their demands are not conceded by their employers. ^[18] They seek to impress upon their employers that their collective voice be heard when decisions affecting their working lives are made. Thus, union assures that individual interest should be subordinated to the collective well-being of its members. Given that joint regulation takes place of authoritarian decision making, collective bargaining can be a vehicle for the democratization of industrial life. ^[19]

¹⁶ Otto Kahn Freund, Labour and the Law, N.M. Tripathi Pvt. Ltd., Bombay.

¹⁷ Id 12

¹⁸ V.V. Giri, Labour Problems in Indian Industry (1966)

¹⁹ 7 R. Blanpain & C. Engels, Industrial Relations and Labour Laws, 4th Ed. (2002)

LEVELS OF COLLECTIVE BARGAINING IN INDIA:

NATIONAL LEVEL BARGAINING: Management and the national-level union typically engage in national-level negotiations. The main benefit of this kind of bargaining is that, when the negotiating process starts, all industries identify the problems and consider all industrial employees. There are undoubtedly several advantages to this, including: uniform salaries or salary rates; absence of disagreements or inequalities; etc.

INDUSTRIAL LEVEL BARGAINING: Trade unions are arranged as industry federations for the purpose of bargaining at the industry level. This stage of negotiation covers the following subjects: basic, regular pay, industry-specific working conditions, production capacity, allowances, and production norms. An industry-wide bargaining process guarantees uniform labour costs and working conditions. But as we observe, every organisation or business has varying degrees of productivity, technology usage and access, performance, etc., which has made industry-level bargaining less effective.

CORPORATE LEVEL BARGAINING: Corporation negotiates and discusses a single agreement with various unions representing different factories within the same organisation. Corporate management routinely engages in these kinds of talks. Corporate-level management has the following benefits - It guarantees uniformity and consistency among all the company's or organization's factories and offices, there is no possibility of dispute arising from disparities in pay scales amongst sites because there is uniformity. With its multi-plant structure, corporate collective bargaining makes it simple to get around concerns that are essential at the plant level. Additionally, when such a level of bargaining is practised for huge public sector organisations like HMT, ONGC, or BHEL, the ability of the employers and management to bargain, especially in India, is limited considering the political involvement. The Ministry of Public Enterprises (MoPE) and the Bureau of Public Enterprises (BPE) both have set instructions and guidelines. ^[20]

PLANT LEVEL BARGAINING: Most private sector companies in India participate in collective bargaining at the plant level. The management of a particular factory or industrial site engages in this kind of bargaining. The complaints and problems are highly specific to a certain business or institution. These kinds of agreements are based on topics that include talks

²⁰ Nishka Kamath, All about collective bargaining, Ipleaders (2024)

about productivity related to remuneration or performance. One benefit of this kind of negotiation is that it permits independent conversations. Here, issues like as variations in living expenses between locations can be addressed individually, offering a realistic middle ground for negotiations.

STAGES OF COLLECTIVE BARGAINING IN INDIA:

Formation of union: Seven employees are required to form a trade union, according to Section 9A of the Trade Unions Act, 1926 ^[21]. While it is not required, joining a union has many benefits, including giving employees' sufficient representation, allowing cash to be used for initiatives, and protection from legal lawsuits.

Preparing charter of demand: At this point, collective bargaining procedures may be started by the company or the union. The labour union then has multiple meetings with each of its members to prepare a charter of demands.

Negotiation: The submission of the charter of demands marks the initiation of the negotiations. In the first meeting, the union usually makes official suggestions for modifications to the current labour agreements. The management is then given the chance to make counterproposals. This continues until they reach a consensus. A third person may be designated as a mediator or arbitrator if they are unable to come to an agreement.

Forming an agreement: Following a successful negotiation, a written agreement is formed by the union and management. This arrangement is referred as a collective bargaining agreement.

Announcing strikes: The union has the right to call for a strike if negotiations fail. Employees in the public utility industry are required by Section 22 of the Industrial Disputes Act ^[22] to give six weeks' notice before going on strike, and they have fourteen days to do so. Until seven days after the conciliation proceedings end or two months after the legal proceedings end, neither the union nor management may engage in any kind of industrial action. This restriction applies to both parties during the conciliation process.

Conciliation: When the conciliation officer receives a notice of strike, the conciliation process

²¹ S. 9A of the Trade Unions Act, 1926 < <https://indiankanoon.org/doc/50580743/> >

²² S. 22 of the Industrial Disputes Act, 1947 < <https://indiankanoon.org/doc/1950513/> >

starts. This stage offers two options that can be chosen. In accordance with Section 4 of the Industrial Disputes Act ^[23], the state government may designate a conciliation officer to conduct investigations, mediate disputes, and encourage settlement during the cooling-off period. The second option, as stated in Section 5 of the Act ^[24], is for the state government to designate a Board of Conciliation, which would consist of a chairperson and two or four other members. Sections 22 ^[25] and 23 ^[26] of the Act prohibit organising strikes while the process of conciliation is underway. According to Section 20 of the Act ^[27], this process must conclude with a settlement or a referral to a labour court or industrial tribunal, sometimes no settlement is reached.

Arbitration or Adjudication: If the conciliation procedure fails, the parties may choose to arbitrate their dispute either compulsorily or voluntarily, with the arbitrator's recommendations potentially binding on both parties. A labour court or industrial tribunal inside the State may decide on such disputes, according to Section 7A ^[28] of the Act. The Act's Section 7B ^[29] provides for the establishment of national tribunals to settle disagreements pertaining to matters of national importance. A formal agreement between the employer and the employees may designate the case for adjudication before a labour court, industrial tribunal, or national tribunal or arbitration.

IMPACTS OF COLLECTIVE BARGAINING:

1. UNIONISATION: Trade unions in India have come a long way since the first organized trade union - the Madras Labour Union, one of the earliest unions, was formed in 1918. India now has more than 84,642 registered trade unions along with an unaccounted number of unregistered trade unions scattered across a large spectrum of industries in India. The potential for growth in trade union represented workers is huge given the fact that India is likely to have a working population of more than 64% by the year 2021. ^[30] This increases the process of collective bargaining agreement will be drawn up and entered between the

²³ S. 4 of the Industrial Disputes Act, 1947 < <https://indiankanoon.org/doc/185363/> >

²⁴ S. 5 of the Industrial Disputes Act, 1947 < <https://indiankanoon.org/doc/746513/> >

²⁵ Id 22

²⁶ S. 23 of the Industrial Disputes Act, 1947 < <https://indiankanoon.org/doc/708192/> >

²⁷ S. 20 of the Industrial Disputes Act, 1947 < <https://indiankanoon.org/doc/63501/> >

²⁸ S. 7A of the Industrial Disputes Act, 1947 < <https://indiankanoon.org/doc/658901/> >

²⁹ S. 7B of the Industrial Disputes Act, 1947 < <https://indiankanoon.org/doc/835880/> >

³⁰ Nishith Desai Associates, India: Trade Unions and Collective Bargaining (2019), < India-Trade-Unions-and-Collective-Bargaining-6.pdf (mlsu.ac.in) >

employer and workmen represented by trade unions about the concerns of the workers. It may be structured as bipartite agreement, memorandum of settlement or consent award that incorporates the terms related to wages, increments, working hours, holidays, rights and principles of employees, layoff of workers and other punishments etc. As the improved conditions via collective bargaining enhanced the number of Trade Unions i.e. unionisation of workers further.

Ram Prasad Vishwakarma v. Industrial Tribunal ^[31]- In this case, the Supreme observed that the labourers found it very difficult to negotiate the terms and conditions of their contracts. However, after the concept of trade unions and collective bargaining was brought into play, the situation changed and employees got the chance to voice out their opinions in a better manner.

2. **COMPENSATION:** Extensive research on wage fluctuations in unionised and nonunionized employment sectors, particularly in the United States, has revealed three additional consequences of collective bargaining expansion. The first is an impact and one-time effect: the introduction of collective bargaining has resulted in a 10-15% increase in the workers' earnings relative to the general level that is prevalent around them. Secondly the impact has been the timing of changes: unionised workers received wage hikes earlier than nonunionized workers when wage increases were the norm, and unionised workers were delayed in receiving layoffs when the market was trending in the opposite direction. The ability of unionists to obtain compensatory increases in monetary salaries more quickly during periods of fast cost of living increases, such as during wartime, encouraged the growth of unionism, particularly among white-collar workers who had previously avoided it. The capacity to both postpone and scale back pay reductions during the Great Depression has been the third effect. In many countries, minimum wages and collective bargaining co-exists and complement each other. **In principle, minimum wages should be targeted at the lowest-paid employees, while collective bargaining can set wage floors but should also promote wage increases for workers who also earn more than the minimum, in line with productivity growth.** ^[32]

³¹ Ram Prasad Vishwakarma v. Industrial Tribunal, 1961 AIR 857 (India)

³² Monitoring the effects of minimum wages, ILO < https://www.ilo.org/global/topics/wages/minimum-wages/monitoring/WCMS_438883/lang--en/index.htm >

In *Hindustan Lever Ltd. v. Hindustan Lever Employees Union*,^[33] the Court explicated the importance of collective bargaining between workers and employers in modern economic life. Labourers, workers and employees faced significant hardships like poor work conditions, low wage rates, etc., before the advent of the process of collective bargaining; however, as the country's trade unions developed and advanced, collective bargaining started becoming the norm.

3. **WORKERS' SATISFICATION:** Studies interpretation states that the collective voice of unionism provides workers with a channel for expressing their preferences to management and this increases their willingness to complain about undesirable conditions. Evidence shows concerning workers' states the satisfaction with particular aspects of their jobs by collective bargaining like union members are more likely to state that they are happy with their wages and fringes than are otherwise comparable non-union employees, there appears to be a strong tendency for unionized workers to state they are less happy with their supervisors and have worse relations with them, there is a tendency for unionized workers to report their physical work, the extent to which stated job security grows with tenure is substantially greater via negotiations.
4. **PRODUCTIVITY, PROFIT & ORGANIZATIONAL PERFORMANCES:** Collective bargaining mostly has positive rather than negative effect on productivity, as unions generally increase costs of production and management is generally able to adjust its production processes thereby increasing profitability. The impact of collective bargaining on other measures of organizational performance, such as product quality and training, tend to be negligible (or positive) but small. Collective bargaining does not alter these outcomes relative to what they would otherwise have been in the absence of unions. There are evidence that cooperative and nontraditional collective bargaining structures have a positive impact on workplace outcomes, such as productivity and quality, but have little effect on overall organizational performance.

ADVANTAGES OF COLLECTIVE BARGAINING:

Negotiation and Settlement: One of the main benefits of collective bargaining is that agreements are reached by consensus and discussion rather than by conflicts and confrontation.

³³ *Hindustan Lever Ltd. v. Hindustan Lever Employees Union*, 1999 (1) BOM CR 722 (India)

As the name implies, collective bargaining gives labourers, employees, and workers a stronger voice. Employees have the advantage over their employers when they are united, working towards the same goals, and may make demands and negotiate a settlement. Collective bargaining sometimes limits or restricts the ability of trade union action to settle issues, and the agreements reflect this. Industrial peace is ensured by engaging into such agreements, at least for the term of the agreements so signed.

Improves Industrial relation, productivity, and profit: Enhancing labour relations is another benefit of collective bargaining. There are different degrees of these advancements. Considering the ongoing communication that occurs between the parties, which eventually contributes to bettering relations between the two groups and helps to establish a fruitful relationship between the union and the employers' organisation. During the collective bargaining process, labour and management typically work together to find remedies for issues. The case *Hindustan Lever Ltd. v. Hindustan Lever Employees Union* ^[34] points out that employers found it easy to deal with the representatives of workers rather than individual employees themselves and this helped them in multiple ways like amending contracts, taking disciplinary action against one or more workers, and in resolving other industrial disputes. This can result in a high-performing workplace, which raises profit and productivity. Collective bargaining provides an open forum for resolving complaints in a systematic way. Through the process of collective bargaining, employees of an organisation can resolve disputes over specific parts of their work in a cool, cooperative manner.

Prevents abuse of power: Collective bargaining prevents abuses of power in the present world, it is no secret that corporates play a very important role, with rapid privatization in almost all industries and encroaching upon our lives and guiding our livelihood, and hence since all the private companies and their motto of 'profit maximization' is at a lead, it becomes necessary that there be some measures to ensure workers safety, members receive other benefits as higher wages, shorter working hours, safer workplaces and better health care. ^[35] In the case of *Bharat Iron Works v. Bhagubhai Balubhai Patel*, ^[36] the Supreme Court stated that the concept of collective bargaining is a part of the modern-day concept of the welfare

³⁴ Id 33

³⁵ Charul Mishra, Importance of Collective Bargaining: An Indian Perspective, Pen Acclaims, ISSN 2581-5504, Vol 9 (2020)

³⁶ *Bharat Iron Works v. Bhagubhai Balubhai Patel*, 1976 AIR 98 (India)

state and that such a method should be exercised in a healthy manner and in a way where there is cooperation and respect between employees and employers.

Promotes peace and harmony: Collective bargaining provides an open forum for resolving complaints in a systematic way. Collective bargaining is a peaceful, group-based process that allows workers in an organisation to resolve conflicts over particular elements of their jobs. Collective bargaining is a crucial practice that helps prevent strikes, which in turn fosters industrial peace and concord and makes the environment conducive to foreign direct investment. In *B. R. Singh v. Union of India*,^[37] the Court recognized 'strike' to be a mode of resolving disputes and grievances of the workers.

DISADVANTAGES OF COLLECTIVE BARGAINING:

Delayed decisions and restricted freedom: It takes a long time to obtain an agreement through collective bargaining because there are a lot of talks and conversations that occur during the process. In certain cases, the involvement of outside parties in collective bargaining has expanded. These parties include politicians, arbitrators, state labour relations boards, etc. These organisations have been crucial in making ultimate choices. Following a successful settlement reached through collective bargaining, management flexibility and authority are frequently perceived as having been curtailed or compromised by the agreed-upon terms. While following the process of collective bargaining, it becomes slightly difficult for employees belonging to small organisations and campuses to have their voices heard.

Inadequate skills: Employees in Indian organisations can lack the ability or knowledge required to negotiate well during the collective bargaining process. This may be the case because staff can occasionally be illiterate, uninformed, or of a similar nature. In these situations, workers are compelled to put up with bad working circumstances to continue working.

No representation of public interest: Collective bargaining is undoubtedly one of the best ways to resolve labour conflicts, but it is unable to include the interests of the broader public in the negotiating process. Huge salary increases that are agreed upon by unions, businesses,

³⁷ B. R. Singh v. Union of India, 1989 (4) SCC 710 (India)

and organisations may result in higher prices for goods and services, which will ultimately fall on the shoulders of the customer.

Time consuming: The process of collective bargaining is quite time-consuming; it might take weeks or even months for employers and employees to come to a compromise. Employers and labour union leaders must communicate back and forth for both sides to agree on employment arrangements. Union officials must inform workers and submit employment terms to a vote throughout the collective bargaining process. Should workers decide not to accept the contract, the negotiation process must begin anew. Collective bargaining is frequently an expensive procedure.

COLLECTIVE BARGAINING IN INDIA- REAL OR ILLUSION?

The process through which labourers, employees, and workers band together to seek improved working conditions, increased pay, better benefits, etc. is known as collective bargaining. Workers, labourers, and employees have far more negotiating power when they band together and negotiate as a single front than when they negotiate individually. Additionally, rather than addressing each worker, labourer, and employee separately, employers can express their ideas and speak to the group as a whole. Industrial conflicts have been successfully resolved through this procedure.

According to the survey by the Bureau of Labour Statistics, union employees typically receive a total compensation and benefit package that is 36.4% higher than that of non-unionized workers. Additionally, workers who are members of a certain trade union receive pay checks that are, on average, 21.4% higher in wages than those of unorganized workers. By stating that **‘When workers act together, they win. When they do not, the employer wins’ – Collective bargaining stands real.**

CHALLENGES INVOLVED IN COLLECTIVE BARGAINING:

LOW RATE OF UNIONISATION:

The low incidence of unionisation in India is one of the primary obstacles to collective bargaining. In India, under 10% of workers belong to a union. This is because a sizable majority of the country's workforce works in the informal sector, where many employees lack

unionisation and legal protections.

INFORMAL SECTOR WORKERS LACK LEGAL PROTECTION:

A significant section of the Indian labour force is employed in the informal sector, where workers frequently lack legal rights and are not members of unions. They are therefore more susceptible to unfair employment practices and exploitation. Furthermore, a large number of workers in the unorganised sector lack access to social security benefits like pensions, healthcare, etc., Consequently, their financial instability increases.

INEQUALITY IN BARGAINING POWER:

The discrepancy in bargaining power between employers and employees is another problem facing collective bargaining in India. This is apparent in industries where employers have significant negotiating leverage. Long-lasting conflicts and industrial action are frequently the result of employers' ability to reject demands made by workers for improved pay and working conditions. The ability of workers to bargain and negotiate is further diminished by the fact that many employers reject the idea of trade unions and collective bargaining and will not participate in it.

INCREASE IN EXTERNAL PARTICIPATION:

In certain cases, external parties such as: have been more involved in collective bargaining. Arbitrators, politicians, and the State Labour Relations Board, among other organisations, has been instrumental in making ultimate decisions.

CONCLUSION:

To sum up, a collective bargaining agreement is a crucial decision made by the employer and the workers who participate in the process. When it comes to settling conflicts, this is the first option that unions and employers explore. It comes into being after a fruitful voluntary negotiation. This facilitates the resolution of conflicts without the need for courts or tribunals and streamlines and expedites the process of bargaining with employers.

SUGGESTIONS:

INCREASE RATE OF UNIONISATION:

Increasing unionisation rates is one of the best methods to improve India's collective bargaining process. Establishing trade unions in the unorganised sector and providing workers in this sector with legal protection are two approaches to achieve this goal. Additionally, initiatives should be made to encourage businesses to recognise trade unions and participate in collective bargaining as well as to promote the benefits of unionisation among employees.

ENCOURAGE COOPERATION:

Encouraging communication between companies and employees is another way to improve India's collective bargaining process. This can be achieved by establishing methods for resolving disputes, such as mediation and conciliation, and by offering support and training to both the employer and the employee regarding the importance of fair labour practices and the key benefits of collective bargaining.

IMPLEMENT LAWS FOR LEGAL PROTECTION FOR WORKERS:

Moreover, strengthening the legal safeguards for workers particularly those coming from the unorganised sector can support the collective bargaining process in India. This goal can be accomplished through the implementation of laws and rules into place that safeguard employees' freedom to organise into trade unions, participate in collective bargaining, and receive social security benefits even if they work in the unorganised sector. And proper implementation of laws and regulations will also reduce the unnecessary external participation.

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