

Collective Bargaining

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Introduction:

The conflict between management and the employee is inherent in an industrial, educational & health sector of society. One argues for more investment and profits while the other argues for better standard of living. These two conflicting interests can be adjusted temporarily through the principle of “give and take” phenomena.

Origin:

The phrase “collective bargaining” was coined by British labor reformers Sidney & Beatrice Webb of Great Britain in the 1890s.

The idea of collective bargaining emerged as a result of industrial conflict & growth of trade union movement & was first given currency in the United States by Samuel Crompters.

In India the first collective bargaining agreement was conducted in 1920 at the instance of Mahatma Gandhi to regulate labor agreement relation between a group of employers and their workers in the textile industry in Ahmadabad., Gujarat.

Definition:

Collective bargaining is the process of negotiating the terms of employment between an employer and a group of workers. The terms of employment are likely to include items such as conditions of employment, working conditions and other workplace rules, base pay, overtime pay, work hours, shift length, work holidays, sick leave, vacation time, retirement benefits and health care benefits.

Collective bargaining takes place between labor unions and the management of the company that employs that union’s workers. It occurs at individual level also. The result of collective bargaining is called a collective bargaining agreement, & it establishes rules of employment for a set number of years. The cost of this employee representation is paid by union members in the form of dues. This process may involve antagonistic labor strikes or employee lockouts if the two sides are having trouble reaching an agreement.

The right of workers to bargain freely with employers is an essential element in freedom of association. Collective bargaining is a voluntary process through which employers & workers discuss & negotiate their relations, in particular terms and conditions of work. It can involve employers directly or as represented through their organizations; & trade unions or, in their absence representatives freely nominated by the workers.

Collective bargaining can only function effectively if it is conducted freely & in good faith by all parties. This implies:

- Making efforts to reach an agreement.
- Carrying out genuine and constructive negotiations.
- Avoiding unjustified delays.
- Respecting the agreements concluded and applying them in good faith.
- Giving sufficient time for the parties to discuss & settle collective disputes.

Bargaining in good faith aims at reaching mutually acceptable collective agreements, where, agreement is not reached, dispute settlement procedures ranging from conciliation through mediation to arbitration may be used.

The collective bargaining process also covers the phase before actual negotiations, information sharing, consultation, job assessments, as well as the implementation of collective agreements.

Legal Boundaries of Collective Bargaining:

A discussion on some legal boundaries of collective bargaining is as follows:

1. No ratification of ILO convention: C- 87 & C- 98.
2. Limited scope & coverage of collective bargaining within legal boundaries of Trade Union Act & Industrial Dispute Act.
3. Trade Union Act & Industrial Dispute Act are silent on recognition of trade unions.
4. Right to strike is not a fundamental right but a legal right governed by Industrial Dispute Act, 1947.
5. Section 10K can be imposed to prohibit strikes or lock outs.
6. Section 22 says that in public utility services there must be a notice of at least 6 weeks before strike.

7. Section 23 speaks on the prohibition of strikes during the pendency of conciliation, arbitration and court proceedings.

Trade Union activities are granted immunity from the applicability of CRPC but not in case of illegal strikes.

New Trends in collective Bargaining:

A) Decentralized & Individualized Bargaining:

Still, in India, collective bargaining is mostly decentralized, i.e., company or unit level bargaining rather than industry level bargaining is prevalent in India. But in few sectors (mainly government sector) the industry level bargaining is dominant. However, privatization of public sector changed the industry level bargaining to company level bargaining. On the other hand, due to severe “informalization” of workforce & downsizing in the industries, the strength and power of the trade unions have been heavily reduced. The trade unions mainly represented the interests of formal workers. Increasing number of informal workers in the companies soon changed the structure of the workforce in such a way that the formal workers became a minority. As a result of various reasons informal workers could not form their own trade unions & on the other hand they are not represented by the trade unions of the formal workers. These situations resulted in spurt of individualized bargaining.

Advancing of “informalisation” of workforce combined with the individualized bargaining in fact changed the character of the trade unions also. In related sectors & industrial regions, it converted many trade unions into legal consultants rather than collective bargaining agents.

B) Declining Wage Share:

Declining strengths of collective bargaining is also reflected in sharply increasing share of profit & considerably declining the wage share, resulting in depressing purchasing power.

C) Collective Bargaining and Nursing:

Nurses render services in various health care settings including community services. They require a safe environment and adequate protection. Frustrating situation & issues cause disturbances in personal & professional life. They present & approach their problems through nursing association & organizations like TNAI, INC etc.