



# CAIIB Module-D

## Human Resources Management



## HRM Module D – Personnel Management and Industrial Relations

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### CAIIB HRM Module D Unit 1- Industrial Relations (A)

#### Personnel Function

- Personnel management is a managerial function of planning, organising, directing, controlling and co-ordinating the line functions or operative functions such as recruitment, development, compensation, integration, utilisation and maintenance of people so that their individual objectives as well as the organisational goals are achieved.
- Personnel management deals with the aspect of relationship between and among people and is concerned about their well-being as individuals and as groups so that they can give their best. Personnel management which has evolved into HRM has three major spheres of activities; viz. **strategic, professional as well as administrative**. These again get bifurcated into **welfare aspect** relating to safety, health, amenities and facilities, **personnel aspect** relating to recruitment, development, compensation and incentives, and **relationship aspect** relating to employee relations, settlement of industrial disputes, negotiation with unions etc.

#### Functions of 'Personnel Management'

##### Strategic Functions:

- ✓ Organisation Mission/Vision, Business Goals, Strategy Formulation,
- ✓ Organisation Life Cycle stage,
- ✓ Organisation Competency Identification (Key Competencies Required) including Competency Mapping Industry/Competitor Analysis.

##### Professional Functions:

- ✓ Performance Management and Review Mechanism,
- ✓ Key Result Areas, Key Performance Indicators and Key Deliverables,
- ✓ Employee Morale and superior performance.

**Administrative Functions:**

- ✓ Recruitment & Selection,
- ✓ Performance and Potential Evaluation,
- ✓ Training and Development,
- ✓ Compensation,
- ✓ Rewards and Recognition,
- ✓ Employee retention.
- ✓ Career and Succession Planning,
- ✓ Employee wellness/welfare.

**Legal Aspects of Personnel Function**

*The important labour laws in India which apply to organisations can be classified under the following groups:*

**Legislation on Working Conditions:**

- The Factories Act, 1948 The Mines Act, 1952
- The Contract Labour (Regulation and Abolition) Act, 1970
- Shops and Establishment Act (enacted by different States)

**Legislation on Wages:**

- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948
- The Payment of Bonus Act, 1965
- The Equal Remuneration Act, 1976

**Legislation on Social Security**

- The Employees' Compensation Act, 1923
- The Employees' State Insurance Act, 1948
- The Employees' Provident Fund and Miscellaneous Provisions Act, 1952
- The Maternity Benefit Act, 1961
- The Payment of Gratuity Act, 1972

**Legislation on Employment and Training**

- The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
- The Apprentices Act, 1961

**The broad objectives of these enactments can be summarised as under:**

- ✓ To protect and safeguard the interest and well-being of the working class against the possible arbitrary action of employers.

- ✓ To regulate and improve the working conditions.
- ✓ To provide for fixation and payment of minimum wages.
- ✓ To ensure timely payment of wages and avoid unauthorised deductions from the wages.
- ✓ To spell out and notify the service conditions for the information of all concerned.
- ✓ To provide for formation of trade unions with a view to promoting collective bargaining.
- ✓ To arrange for social security measures in the event of sickness, disablement and death of workmen.
- ✓ To promote industrial peace by providing for machinery for settlement of industrial disputes.
- ✓ To be receptive to the market demands and enact legislation for facilitating modern businesses.
- ✓ To promote ease of doing business, reducing compliance burdens, and modernizing the legal framework surrounding the regulation of industrial relations in India.

### **Legislation On Working Conditions**

#### **The Contract Labour (Regulation and Abolition) Act, 1970**

- The Act is applicable to every establishment in which 20 or more workmen are employed or were employed on any day of the preceding twelve months as contract labour. In Maharashtra, this threshold limit has been enhanced to 50.
- The Act is not applicable to establishments performing work only of an intermittent or casual nature.
- A workman is deemed to be employed as '**contract labour**' when hired through a contractor with or without the knowledge of the principal employer.
- Every principal employer of the establishment to which the Act applies must get the establishment registered under the Act for employing contract labour and every contractor must obtain a license under the Act for executing work through contract labour.
- The principal employer, who has not obtained the registration or whose registration is **revoked under Section 8 of the Act**, is prohibited from employing any contract labour.

#### ***The appropriate government may prohibit any establishment from employing contract labour considering:***

- Whether the conditions of work and benefit provided for contract labour are satisfactory
- Whether the work is incidental to or necessary for the business of the establishment
- Whether the work is of a perennial nature or of sufficient duration
- Whether it is ordinarily done through regular workmen.

### ***A contractor is required to provide:***

- A canteen if the establishment employs 100 or more workers;
  - Rest rooms if the contract labour is required to halt at night;
  - Sufficient supply of drinking water and washing facilities; and
  - First-aid box.
- If the contractor fails to provide these facilities, the principal employer has to provide these amenities.
  - The payment of wages shall be made by the contractor in accordance with the provisions of **Payment of Wages Act, 1936**. It is the responsibility of the principal employer to pay the unpaid wages if the contractor fails to pay the same.

**Note:** By a notification of **December 6, 1976**, the **Central** Government has prohibited employment of contract labour by banks for sweeping, dusting and watching of buildings. Having regard to the emerging developments, Reserve Bank of India (being the custodian of Banks) has since allowed outsourcing in Banks in non-core activities which have been clearly spelt out like – sweeping, dusting, watching buildings, etc.

### **The Bombay Shops and Establishments Act, 1948**

- A shop or establishment (which includes commercial establishment) is to be registered under the Act with the local authority. The license is valid for one year and needs to be renewed.
- No employee should be asked to work more than 9 hours on any day and 48 hours in a week. Employees are allowed to work 6 hours extra in each week and six days in a year for preparation of accounts, stock taking etc. But such over-time should **not exceed 24 hours**.
- It provides for rest intervals in such a way that no employee is required to work for more **than 5 hours before** having an interval for rest of at least one hour.
- It also provides for weekly holidays. Every commercial establishment has to remain closed on one day of the week and the employee is to be paid for such closed day.
- The Act makes provision for leave. If an employee has worked for more than 240 days during a **year, he is entitled to 21 days leave** which can be accumulated up to 42 days. If the employee is discharged before he has availed of the leave he is to be paid for that leave. Even when the employee quits employment, he is to be paid for such leave if his application for such leave was rejected earlier.
- The Act requires the employer to maintain attendance register, leave record, etc.

### **Trade Union Act, 1926**

- The main objective of the Act is to provide for registration of trade unions and give the registered trade unions a legal status and immunity to their office bearers from civil and criminal liability for pursuing legitimate union activities.

- ‘**Trade dispute**’ has been defined by the Act as a dispute between employers and workmen, or workmen and workmen, or employers and employers, which is connected with the employment or non-employment or terms of employment or the conditions of labour.
- Any seven or more members of a trade union can by subscribing their names to the rules of the union and by complying with the provisions of the Act, apply for registration of the trade union. Provided that no Trade Union of workmen shall be registered unless at least ten per cent or one hundred of the workmen, whichever is less, engaged or employed in the establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration.
- **Under Sec. 9A of the Act, a registered Trade Union of workmen shall at all times continue to have not less than 10% or 100 of the workmen**, whichever is less, subject to a minimum of seven, engaged or employed in an establishment or industry with which it is connected, as its members.
- If the trade union is in existence for more than a year before it applies for registration, it shall submit a statement of assets and liabilities in the prescribed form to the Registrar of Trade Unions.
- The Registrar shall issue a certificate of registration which is a conclusive proof of registration of the trade union and it can be withdrawn **after giving two months’ notice**.

***A trade union after registration:***

- Becomes a body corporate and a legal entity, distinct from its members,
- Has perpetual succession and a common seal,
- Has powers to acquire and hold movable and immovable property,
- Has power to contract,
- Can by its name sue and be sued.

***The general fund of the registered trade union shall not be spent on any objects other than the following:***

- Payment of salaries and expenses of the office-bearer of the trade union;
- Administrative expenses including audit of the accounts of the general fund;
- Expenses of legal proceedings for prosecuting or defending the trade union
- For the conduct of trade dispute
- Compensation to members for loss arising out of trade disputes
- Allowances to members or their dependants on account of death, old age, sickness, accidents
- Taking out insurance policies on the lives of members
- Provision of social, educational or religious benefits to the members or their dependents.

The account books and list of membership of a trade union shall be opened for inspection to any member.

Not less than one-half of office-bearers of the trade union shall be the persons actually engaged or employed in the industry to which the union is connected.

### Industrial Dispute Act, 1947

This is an Act to provide for investigation and settlement of industrial disputes between employer and employee, workman/workmen and workman/workmen and employer and woman/workmen.

*The Supreme Court, through various judgements, has outlined the objectives as:*

- To ensure social justice to employers and employees and bringing about harmony
- To settle disputes through conciliatory machinery
- To prevent illegal strikes and lockouts
- To provide compensation to workmen in case of lay-off, retrenchment, closure
- To promote collective bargaining.

In an attempt to resolve the industrial dispute the Act makes it obligatory to constitute a works committee in industrial establishments employing 100 or more workmen. The committee consists of equal number of representatives of workmen and employer. However, the total number of members in the Works Committee should **not be more than 20**. The works committee is formed to promote measures to secure and preserve amity and good relations between the employer and workmen.

*The Act provides for redressal of Industrial disputes in a three pronged way:*

- By constituting works committee;
  - By appointment of conciliation officer or constitution of Board of Conciliation;
  - By referring the matter to the labour court, tribunal or national tribunal.
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- The Act also provides for voluntary reference of disputes to arbitration if the employer and workmen agree to refer it to the arbitrator before the dispute has been referred to the labour court or tribunal.
  - The Act makes it obligatory for the employer to give a notice of change before effecting any change in the conditions of service in respect of wages, hours of work, leave and holidays, Introducing new rules of discipline, withdrawal of any concession or privilege. **21 days' notice to the workmen** likely to be affected by the proposed changes is required to be given.
  - The Act prohibits strikes and lock-outs in public utility services without giving due notice and also provides for general prohibition of strikes and lock-outs under certain circumstances.
  - The Act provides for lay-off, retrenchment and closure for which a specified procedure is required to be followed and compensation at the prescribed rate to be paid to the workmen affected.

### Industrial Relations Code 2020

It subsumes three major Central laws that relate to industrial dispute settlement and collective bargaining arrangements, namely –

- **The Industrial Disputes Act, 1947**
- **The Trade Unions Act, 1926**
- **Industrial Employment (Standing Orders) Act, 1946.**

The objects of these Acts have been retained for the most part with the Industrial Relations Code, 2020 consolidates the laws for ease of compliance into a single document. However, certain changes have been brought in with a view to promote ease of doing business, reducing compliance burdens, and modernizing the legal framework surrounding the regulation of industrial relations in India.

### Salient Features

- The definition of worker has been broadened and now includes **working journalists** as defined in Section 2(f) of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act of 1955 and **employees of Sales promotion** as defined in Section 2(d) of the Sales Promotion Employees (Terms of Service) Act 1976. Persons employed in a supervisory capacity earning less than Rs. 18,000 per month (or any amount notified by the Central Government) is included in the definition of “worker”.
- **Fixed-term employment** has a legal basis. It allows employers greater flexibility to hire in line with supply and demand. Fixed-term employees are eligible to receive tips on a pro-rata basis if they serve for one year under their respective employment contracts. They are equal with permanent employees concerning working conditions, wages, allowances, and other benefits.
- The applicability threshold of the Labour Disputes (Regulation) Act 1947 under the **Labour Relations Bill 2019** had been established in establishments employing **100 or more employees**. However, the Industrial Relations Code 2020 has raised this threshold to 300.
- **Concerning layoffs and reductions in personnel**, Section 65 applies to industrial establishments that are not included in Chapter X of the Code, which is essentially Chapter VB of the Industrial Dispute Act of 1947. It applies to **industrial establishments in which more than fifty workers are working on average per working day during the previous calendar year**.
- **Section 77 of Chapter X applies to industrial establishments in which no less than 300 workers or a greater number of workers than may be specified by the corresponding government, were employed on average per working day in the previous 12 months**. Therefore, the establishments included in this provision must obtain prior permission from the Government for layoffs, staff reductions and closure.
- **The Code forbids strikes and immediate lockouts in all companies** and therefore no company can strike contrary to the contract 60 days before the strike or the expiry of a date specified in the strike notification. Strikes are also prohibited while mediation is in progress and within 7 days of the conclusion of such a process. Strikes are also prohibited while proceedings are pending before a labour court or 60 days after they are concluded.

## Trade Union: Negotiating Union/Negotiating Council

The Industrial Relations Code 2020 provides a new concept for negotiating trade unions or negotiating councils in an industrial company.

- In the case of a single union in an industrial company, the employer recognizes that union as the sole bargaining union of the workers.
- If there are several unions, the union is recognized by the employer as a bargaining union **with 51% of the employees** in the industrial company's model directory.
- In the case of several trade unions, none of which fulfil the above-mentioned 51% membership criteria, the employer forms a negotiating council made up of representatives of these registered trade unions, who are supported by at least 20% of the total workforce of the industrial company.
- **Industrial Relations Code 2020** also provides that if the Central/State Government believes that there is a need for a union or confederation to be recognized as a central/state union, that government may recognize the trade unions alike.

## Strikes And Lockouts

- Industrial Relations Code 2020 defines "**strike**" as including the concerted casual vacation on a given day of **fifty percent or more** of the workers in an industry.
- No employee can strike without reporting a strike to the **employer 14 days** in advance. This notification is valid for a maximum of 60 days.
- No employer can lockout one of its employees **without giving 14 days'** notice of the lockout. This notification is **valid for a maximum of 60 days**.

**Industrial Relations Code 2020 prohibits strikes and lockouts:**

- During and up to seven days after arbitration; and
- During and up to sixty days after or before trial in a court or arbitrator
- During any period in which a settlement or arbitration award is in effect.
- Employers are required to report to the relevant government and arbitration officer within five days of receiving/announcing a strike/lockout.

## Standing Orders

- Industrial Relations Code 2020 states that the provisions regarding standing orders will apply to the establishments that have had three hundred or more employees on any day in the preceding **twelve months or a year**.
- An employer will be required to prepare a draft of standing orders, based on the Central Government model standing order, **within 6 months** from the code start date, in consultation with recognized negotiating unions or members of the negotiating council concerning the same and it must be certified by the certifying officer.

## Re-skilling Funds

Industrial Relations Code 2020 provides for the creation of a “**reskilling fund**” for employees laid off from the industrial establishment by the employer. The fund will be made up of the following amounts:

- Employer contribution, equivalent to 15 days of salary as the last retirement of the worker immediately before being fired.
- Contributions from other sources as prescribed.
- The fund must be used to pay the last 15 days of salary extracted by the worker, to his account, within 45 days after the worker’s dismissal.

### Layoff And Retrenchment

- Industrial Relations Code 2020 defines lay-off as the inability of an employer, due to shortage of coal, or power, material or breakdown of machinery, accumulation of material or natural calamity from giving employment to a worker whose name is on the muster roll and has not been retrenched.
- Retrenchment refers to the termination of service of a workman for any reason other than disciplinary action. It does not include retirement, non-renewal of contract, or completion of tenure of fixed-term employment or termination on the ground of continued ill-health.
- The provisions on lay-off and retrenchment under Industrial Relations Code 2020 do not apply to industrial establishments with less than 50 workers on an average per working day or seasonal industrial establishments.
- Whenever a worker whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off. Compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him, had he not been so laid-off.
- Further, factories, mines and plantations, which have three hundred or more workers must take prior permission of the appropriate Government before lay-off, retrenchment and closure.

### Grievance Redressal Mechanism

- Industrial Relations Code 2020 states that any industrial establishment employing more than 20 employees must have one or more complaint redressal committees for the resolution of disputes arising from individual complaints.
- The committee should be made up of an equal number of members representing employers and workers, and the chair should be elected, alternately, from among employees and workers, on a rotating basis each year.
- The number of grievance redress committees cannot exceed 10 and there must be adequate representation of female workers on the committee and must not be less than the proportion of women employed in the industrial establishment.

### Compliance Requirements

Short Title	Threshold for Applicability	Requirement
Works Committee	100 or more workers	Constitution of Works Committee consisting of representatives of employer and workers
Grievance Redressal Committee	20 or more workers	Constitution of Grievance Redressal Committees for consisting of equal number of members representing employer and workers
Preparation of draft Standing Orders by Employer	300 or more workers	Employer must prepare draft Standing Orders within a period of six months from the date of commencement of this Code

## Legislation of Wages

### The Payment of Wages Act, 1936

- **Objectives:** To regulate payment of wages at least once in a month and at a regular interval, and to prevent unauthorized deductions from the wages.

### Features and main provisions

- The Act can be made applicable by the State Government by notification to establishments.
- The Act covers employees whose wages are less than Rs. 24,000/- p.m.
- The term 'wages' has a very wide coverage meaning remuneration, overtime payment, leave salary, payment on termination, etc., but excludes any bonus, contribution to PF or Pension Fund, and any Gratuity payable.
- In organisations employing less than 1,000 persons wages shall be paid before the expiry of the seventh day, and where more than 1,000 persons are employed it shall be paid before the expiry of the tenth day, after the last day of the wage period in respect of which wages are payable.
- Payment of wages is to be made in currency notes. On authorisation from the employees payment can be made by cheque or to the credit of the employee's account.
- Payment is to be made without any deductions except those deductions which are authorised by the Act.
- Authorised deductions include: fines, deductions for absence, deductions for damages or loss, deduction for house accommodation and other amenities, recovery of advance, adjustment for over payments, recovery of loans, IT deductions, payment to co-operative society, LIC premium etc.
- Deductions are authorised for absence. However, if 10 or more employees acting in concert absent themselves without notice and cause, deductions can be made for a **maximum period of 8 days**.
- Deductions for damage or loss caused due to neglect can be made only after giving an opportunity to the employee to show cause against the deductions.

**Note:** The Payment of Wages Act, 1936 is not directly applicable to banks. However, the Shops and Establishment Acts of different States have incorporated some of these provisions and made this Act applicable to banks.

### The Minimum Wages Act, 1948

- **Objectives:** The Act aims to provide for fixing minimum rates of wages in certain employments.

### Features and main provisions

- The Act is applicable to employments listed in the Part I and Part II of the Schedule to the Act. It covers certain establishments regardless of number of workers employed. Some of the establishments covered are: rice mill, flour mill, tobacco manufacturing, oil mill, employment in agriculture, dairy farming, horticulture, poultry, etc.
- Wages means all remuneration capable of being expressed in terms of money payable to a person but does not include value of accommodation, supply of light, water and other amenities, contribution to the pension fund or provident fund or social insurance scheme or gratuity payable on discharge, and travelling allowance.
- Where the appropriate government has fixed minimum rates of wages, the employer is bound to pay at rates not less than the rates notified.
- The rates of wages can be fixed for different employment, classes of employment, different localities. The rates may be a time rate, a piece rate, a guaranteed time rate and overtime rate.
- Any contract or agreement by an employee relinquishing his/her right under this Act shall be null and void.

**Note:** The Act has fixed the floor level for wages. The provisions of this Act do not apply to banks as it is not treated as scheduled employment.

### The Payment of Bonus Act, 1965

- **Objectives:** To provide for payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and matters connected therewith.

### Features and main provisions

The Act applies to all factories and establishments employing 20 or more persons.

Bonus is payable to:

- **Employee whose salary/wages does not exceed Rs. 21,000 per month.**
- **Who has worked in the establishment for not less than 30 days.**
- Not disqualified to claim bonus due to fraud, theft or any other misconduct.
- Bonus of very person drawing salary between Rs. 7,000/- and Rs. 21,000/- per month shall be calculated as if his salary were Rs. 7000/- pm or the minimum wages for the employment as fixed by the appropriate Government, whichever is higher.
- Determination of Gross Profit is the first step towards calculating amount of bonus. From Gross Profit certain charges are to be deducted such as remuneration of partners or proprietors, a return of 8.5 per cent on equity capital and 6 per cent in reserves, depreciation under the Income Tax, direct

taxes, dividend paid or payable. After deducting these, 'available surplus' is arrived at. 67 per cent of available surplus is 'allocable surplus' for a company and for others it is 60 per cent. Bonus is to be paid from the allocable surplus.

- It is an obligation on the employer to pay bonus at a minimum rate of 8.33 per cent of the salary or Rs. 100/- whichever is higher.
- It is to be paid irrespective of profit or loss or whether there is allocable surplus or not in the accounting year. The maximum rate is fixed at 20%.
- The Fourth Schedule to the Act illustrates the method of set-on and set-off. The excess of allocable surplus after distributing bonus shall be set-on and carried forward up to the fourth accounting year. In the case of shortage or want of allocable surplus, the amount distributed will be carried forward for set-off out of allocable surplus.
- New establishments get exemption from payment of bonus for a period of 6 years or up to the year they show profit, whichever is earlier.
- Bonus is to be paid within a period of 8 months from the close the accounting year.
- An acknowledgement of an employee is to be obtained on revenue stamp in form "C" for having received bonus payment.

### **The Equal Remuneration Act, 1976**

- **Objectives:** To provide for the payment of equal remuneration to men and women employees and for the prevention of discrimination on the grounds of sex against women.

### **Features and main provisions**

- Remuneration includes basic salary and any additional emoluments payable in cash or in kind.
- It is the duty of the employer to pay equal remuneration to men and women for the same work or work of a similar nature.
- No discrimination will be made while recruiting for the same work except where the employment of women is prohibited or restricted.
- No discrimination should be made against women in the matter of conditions of service, promotions, training etc.
- It is obligatory to maintain prescribed registers and other documents in relation to employees.

## **Legislation on Social Security**

### **The Employees' Compensation Act, 1923**

**Objectives:** The Act imposes an obligation upon the employer to pay compensation to workers for accidents arising out of and in the course of employment. The Act provides for compensation for the injury which is in addition to his normal wages.

### **Features and main provisions**

- The Act applies to any person employed otherwise than in clerical capacity in railways, factories, mines, loading and unloading work on a ship, construction of roads and bridges and other hazardous occupations specified in Schedule II to the Act. The Act does not apply to members of Armed Forces.
- The compensation is payable for any personal injury sustained by the workman in an accident arising out of and in the course of employment. No compensation is payable if the disablement does not continue for more than three days.
- Section 4 to 7 detail the rate at which compensation is payable for different types of disablement caused due to injury for fatal injury as well as permanent total disability.
- Permanent Partial Disablement – according to incapacity caused.
- Temporary Disablement – fixed amount per month up to a period of 5 years.
- The Act provides for the compensation amount to be deposited with the Commissioner for Workmen's Compensation in the case of fatal accidents.

### Doctrine of Notional Extension:

The Supreme Court explained this doctrine: “as a rule employment does not commence until the workman has reached the place of employment and does not continue when he has left the place of employment. This is however subject to the theory of notional extension of the employer's premises so as to include the area the workman passes and repasses while going to and returning from the workplace. it has to be proved by the employee that:

- There was an accident,
- The accident had a causal connection with the employment and
- The accident must have been suffered in course of employment.

### The Employees' Provident Fund and Miscellaneous Provisions Act, 1952

- **Objectives:** to provide substantial security and monetary assistance to the employees and their families and to protect them during old age, disablement, etc. The Act provides for a scheme for institution of provident fund.

### Features and main provisions

- An employee includes any person employed for wages in any kind of work, in connection with the work of an establishment. As per an amendment to the Provident Fund Scheme from time to time, the wage limit coverage has been enhanced to Rs. 15,000/- per month.
- The Act is applicable to factories and other establishments employing 20 or more persons.
- The normal rate of contribution to provident fund by the employees and the employers is 12 percent.
- The Central Government declares the rate of interest to be credited annually to the accounts of the provident fund subscribers.
- A member may withdraw full amount from his PF account in the event of retirement from the service after attaining the age of 55 years;
  - ✓ Retirement on account of permanent incapacity,

- ✓ Migration for permanent settlement abroad,
- ✓ Termination in the course of mass retrenchment.
- The scheme provides for transfer of PF account of the member on his leaving the service of an employer and joining another establishment.
- A refundable withdrawal can be made for: house-building, financing LIC policy, illness of member or his family members, member's marriage or marriage of his son, daughter, brother, sister, etc., with certain limits. However, non-refundable withdrawal even upto 100% of employee contribution from PF can be made only for the purpose of house-building.

### The Maternity Benefit Act, 1961

- **Objectives:** The Act is a social security legislation to promote the welfare of working women. It also prohibits working of pregnant woman for a specified period before and after delivery. It provides for leave and certain monetary and other benefits.

### Features and main provisions

- The Act applies to every establishment, factory, mine, etc., having 10 or more employees.
- The maximum period of maternity leave is – 26 weeks; eight weeks before the date of delivery. Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery.
- Maternity leave of 12 weeks is also allowed to mothers legally adopting a child below the age of 3 months.
- In case, where the nature of work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.
- To be entitled for maternity leave a woman must have worked for not less than 80 days in the 12 months immediately preceding the day of expected delivery.
- In case of miscarriage, a woman is entitled to six weeks of leave from the day of miscarriage.
- For illness arising out of delivery, premature birth or miscarriage, a woman can take extra leave up to a maximum period of one month.
- Every woman entitled to maternity benefit is also entitled to a medical bonus of Rs. 250/- if no pre-natal or post-natal care has been provided for by the employer free of charge.
- Every establishment having fifty or more employees shall have the facility of crèche within such distance as may be prescribed, either separately or along with common facilities. Provided that the employer shall allow four visits a day to the crèche by the woman, which shall also include the interval for rest allowed to her.

### The Payment of Gratuity Act, 1972

- **Objectives:** The Act provides for a scheme of compulsory payment of gratuity to employees employed in factories, mines, shops and other establishments having 10 or more employees.

### Features and main provisions

- The Amendment Act of – 2017 removed the salary ceiling of an employee, but the maximum gratuity payable shall be Rs.20 lakh w.e.f. 1.1.2016.
- Section 4 confers a right on the employee to receive gratuity if he has rendered continuous service of not less than 5 years, on superannuation, retirement or resignation or death. The completion of 5 years is not necessary if the termination of employment is due to death or disablement.
- For every completed year of service or part thereof in excess of 6 months, gratuity is payable at the rate of 15 days' last drawn salary as per Section 4(2).
- Gratuity can be forfeited if the services of an employee are terminated for any act of willful omission or negligence causing damage or loss to the property of the employer, to the extent of loss.
- Section 6 provides for nomination facility. The employee who has completed one year of service has to submit nomination in the prescribed form. Nomination has to be in the name of a family member(s).
- Payment of gratuity under this Act is not liable to be attached in execution of any decree or order of any civil, revenue or criminal court.

**Note:** The gratuity payable under the scheme of the banks or other employer, can be attached to the extent the amount exceeds the one payable under the Act.

### Legislation on Employment And Training

#### **The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959**

- **Objectives:** To enable government authorities to assess the employment potential and to have better appreciation of labour market as well as to enable unemployed persons, to seek employment.

### Features and main provisions

- The employer is obliged to notify the vacancy before filling up any vacancy. The vacancy should be notified in writing to the employment exchange having jurisdiction over the **area at least 15 days** before the date on which the applicants are to be interviewed.
- The employer is required to submit quarterly and biennial returns to the Employment Exchange giving details regarding total number of employees, vacancy position and occupational classification of employees,
- While employers are required to notify the vacancy, they are not obliged to appoint only those sponsored by employment exchanges.
- The Act does not apply to vacancies to be filled through promotion or on the results of any examination conducted or interview held by any independent agency such as Union or State Public Service Commission and the like.

### The following two enactments in Banking context:

- **Banking Companies' (Acquisition & Transfer of Undertakings) Act, 1970:** This is the Act under which the 14 major banks were nationalized in July 1969 and subsequently in April 1980, 6 more banks were nationalized. The Act provides for the Central Government to make regulations on service conditions for the employees of these banks.
- **Banking Regulation Act, 1949:** This Act is applicable to all the scheduled banks including the nationalized banks. **Section 10(1)** prohibits employment of any person who has been adjudicated insolvent or has been convicted by criminal court of an offence involving moral turpitude.



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## CAIIB HRM Module D Unit 1- Industrial Relations (B)

### Trade Unions

- The first Trade Union was founded by **Shri Narayan Meghjee Lokhanday in Bombay in 1890**. Thereafter, there were a few trade unions in Railways, Printing Industry, Indian Post Offices, etc.
- The unions were aimed at promoting welfare activities, spreading literacy amongst workers and for redressing their grievances.

*The important trade unions in the country today are:*

- **INTUC** – Indian National Trade Union Congress
- **AITUC** – All India Trade Union Congress
- **HMS** – Hind Mazdoor Sabha
- **CITU** – Centre of Indian Trade Union
- **BMS** – Bhartiya Mazdoor Sangh

### Trade Unions in Banks

- Trade unions played a very important role in safeguarding the interests of the bank employees so that their collective bargaining strength at its peak covered almost 90% of the workmen staff.

***The important Trade Unions/Federations in the banks which are parties to bilateral settlements at Industry level, are:***

- All India Bank Employees' Association (AIBEA)
- National Confederation of Bank Employees (NCBE)
- Bank Employees Federation of India (BEFI)
- National Organisation of Bank Workers (NOBW)
- Indian National Bank Employees' Federation (INBEF)

***The important Officers' Organisations which are parties to the Joint Notes being entered into bilaterally at Industry level, are:***

- All India Bank Officers' Confederation (AIBOC)
- All India Bank Officers' Association (AIBOA)
- Indian National Bank Officers' Congress (INBOC)
- National Organisation of Bank Officers (NOBO)

The workers and officers in the banking and insurance sector are well organised under the flag of their respective Trade Unions and therefore they could get their demands settled either through negotiations or through agitations.

### **Weaknesses of Trade Unionism in Banking Industry**

- **Trade union:** There are multiple trade unions in almost all the industries. Each union attempts to achieve goals through means, both fair and unfair. It gives rise to union rivalry, sometimes even culminating in violence.
- **Political affiliation:** The political parties have different ideologies which get translated into the unions sponsored by them. If the ruling party union holds a particular view, the others will not subscribe to it. This again results in inter union rivalry and is against the interest of the workers.
- **Proliferation of unions:** Due to the uncontrolled growth of the unions and the absence of functional unity among them, they have a small and irregular membership.
- **Apprehensions of workers:** Even today the workers are afraid that their being a member of the trade union will not be liked by the employer and that they will be victimised.

- **Outside leadership:** Another problem faced by the unions is that they have outside leaders. Leaders are not from the workers of the unit or industry. This distances the workers further from the union activities. The leaders on their part do not have proper appreciation of the problem faced by the workers and try to tackle the issue from their perception of the situation which may be alien from reality.
- **Employers' attitude:** trade unions were quite aggressive, threatening and unreasonable in their approach. The employers perceived them as trouble-makers, unnecessary, hurdle in the growth of industry.
- **Lack of Leadership:** With the old generational employees who have provided effective leadership to the Unions in banks, are slowly retiring from the banks etc., coupled with the fact that new generation employees are not willing to be unionized, there has been leadership shortage/ gap in the Bank's Trade Unions.
- **Entry of New Generation employees:** many new generation employees are entering the banks with varied drives, desires and needs. These employees are more career-minded and as such more reluctant to be unionized.

### Check-off Facility

- **'Check-off'** facility is an arrangement or practice in unionized (organized) establishments under which an employer regularly deducts union dues from the employees' wages and passes them on to the union.
- Check-off may require a written authorization from the employee for the deduction. In the banking industry, the unions have been enjoying this facility through the payment of union membership fees by way of deduction from salary. This has been considered as authorised deduction under the Payment of Wages Act. The union in turn gets an authentic information from the employer as to how many members it has.
- The Industrial Disputes Act provides for a machinery to amicably settle various disputes, including the basic one – the check-off.

### Industrial Relations

- Industrial relations explains the relationship between employees and management which stems directly or indirectly from union-employer relationship.
- The field of industrial relations looks at the relationship between management and workers, particularly groups of workers represented by a union. Industrial relations are basically the interactions between employers, employees and the government, and the institutions and associations through which such interactions are mediated.
- Industrial relations also includes the processes through which these relationships are expressed (such as, collective bargaining, workers' participation in decision-making, and grievance and dispute settlement), and the

management of conflict between employers, workers and trade unions, when it arises.

### Objectives of 'Industrial Relations'

- To safeguard the interest of labor and management by securing the highest level of mutual understanding and good-will among all those sections in the industry which participate in the process of production.
- To avoid industrial conflict or strife and develop harmonious relations, which are an essential factor in the productivity of workers and the industrial progress of a country.
- To raise productivity to a higher level in an era of full employment by lessening the tendency to high turnover and frequency absenteeism.
- To establish and promote the growth of an industrial democracy based on labor partnership in the sharing of profits and of managerial decisions, so that individuals' personality may grow to its full stature for the benefit of the industry and of the country as well.
- To safeguard the interest of labor and management by securing the highest level of mutual understanding and good-will among all those sections in the industry which participate in the process of production.
- To improve the economic conditions of workers in the existing state of industrial managements and political government.
- Socialization of industries by making the state itself a major employer.
- Vesting of a proprietary interest of the workers in the industries in which they are employed.

### Importance of 'Industrial Relations'

- **Uninterrupted production:** The most important benefit of industrial relations is that this ensures continuity of production. This means, continuous employment for all employees who contribute to production process, i.e., from chief executive officer to floor workers to pantry boy.
- **Reduction in Industrial Disputes:** Good industrial relations reduce the industrial disputes. Disputes are reflections of the failure of basic human urges or motivations to secure adequate satisfaction or expression which are fully cured by good industrial relations. Strikes, lockouts, go-slow tactics, gherao and grievances are some of the reflections of industrial unrest which do not spring up in an atmosphere of industrial peace. It helps promoting co-operation and increasing production.
- **High morale:** Good industrial relations improve the morale of the employees. Employees work with great zeal with the feeling in mind that the interest of employer and employees is one and the same, i.e., to increase production.
- **Mental Revolution:** One of the main objectives of industrial relation is a complete mental revolution of workers and employees. The industrial peace lies ultimately in a transformed outlook on the part of both. It is the duty of leaders in the ranks of workers, employees and Government to work out a new relationship in consonance with a spirit of true democracy. All should consider themselves as

partners of the industry and the role of workers in such a partnership should be recognized. On the other hand, workers must recognize employer's authority. It will naturally have impact on production because they recognize the interest of each other.

- **Reduced Wastage:** Good industrial relations are maintained on the basis of cooperation and recognition of each other. It will help increase production. Wastages of man, material and machines should be reduced to the minimum to protect the interests of all the stakeholders.

### Ways to Improve Industrial Relations Situation in Organizations

- **Strong and Stable Union:** A strong and stable union in each industrial enterprise is essential for good industrial relations. There must be strong and stable unions in every enterprise to represent the majority of workers and negotiate with the management about the terms and conditions of service.
- **Mutual Trust:** Both management and labor should help in the development of an atmosphere of mutual cooperation, confidence and respect. Management should adopt a progressive outlook and should recognize the rights of workers. Similarly, labor unions should persuade their members to work for the common objectives of the organization.
- **Workers' Participation in Management:** The participation of workers in the management of the industrial unit should be encouraged by making effective use of works committees, joint consultation and other methods. This will improve communication between managers and workers, increase productivity and lead to greater effectiveness.
- **Mutual Accommodation:** The employers must recognize the right of collective bargaining of the trade unions. In any organization, there must be a great emphasis on mutual accommodation rather than conflict or uncompromising attitude.
- **Sincere Implementation of Agreements:** The management should sincerely implement the settlements reached with the trade unions. The agreements between the management and the unions should be enforced both in letter and spirit else environment of uncertainty will be created.
- **Sound Personnel Policies:** The policies should be:
  - Formulated in consultation with the workers and their representatives if they are to be implemented effectively.
  - Clearly stated so that there is no confusion in the mind of anybody.
  - Implementation of the policies should be uniform throughout the organization to ensure fair treatment to each worker.
- **Government's Role:** The Government should play an active role for promoting industrial peace. It should make law for the compulsory recognition of a representative union in each industrial unit.

### Collective Bargaining

**Collective Bargaining'** implies joint negotiation of a dispute between Management Representatives on one side and those of the employees, on the other. In wider sense,

the concept of '**Collective Bargaining**' is a process being adopted by the unions and management for settling their conflicting interests.

**The main features of this concept are:**

- It is an advanced art to maintain harmonious human relations in the organisation.
- It is a method of sophisticated confrontation between the management and employees.
- It is a collective action initiated primarily by the union, supplemented by the management.
- The process comprises of two contending parties of equal strengths but having conflicting interests, i.e., Management and Union.
- It is relatively flexible and dynamic but not static.
- It is not a one-time exercise but a continuous and on-going process.
- It is a process to promote and nurture industrial democracy at work through 'Workers Participation in Management (WPM)'.
- It is necessarily a complementary but not a competitive process – No party should claim supremacy over the other.
- It aims at preparing the level playing ground for mutual trust and goodwill among both the parties.
- It should culminate into a healthy resolution of grievances and in turn, create a sense of belongingness among the employees.

**Types of Activities of 'Collective Bargaining' Process**

**A Collective Bargaining process generally consists of two types of activities – distributive bargaining and, integrative bargaining.**

- **Distributive Bargaining:** Here, the economic issues like wages and salaries and remuneration are discussed. Under this bargaining, one party's gain is another party's loss, i.e., it is a 'win-loss' situation, which is not conducive for maintaining cordial industrial relations in the organisation.
- **Integrative Bargaining:** This is a negotiation of an issue on which both parties may gain, or at least neither one loses, i.e., 'win-win' situation, which is ideal scenario for maintaining cordial Industrial Relations in the organisation. Discussions over the better job evaluation system or a better training programme for employees may be cited as examples of integrative bargaining.

**Collective Bargaining Process**

- Collective bargaining process could begin at the end of an earlier agreement or settlement such as wage settlement. It may also begin with the members of the union realizing the need of certain other benefits being necessary for the workers of the unit.

**Typically, the process could include:**

- The union writing to the employer making new demand and arguing as to how it is necessary and relevant to sanction the demand.

- The employer may on try to convince the union as to how the demand is irrelevant, and cannot be acceded to.
- The process may continue for some time with each party issuing notices, letters, replies to each other.
- The union may thereafter decide to intensify its action and give notice of non-cooperation or strike.
- To avert the production coming to a stand-still, the employer may call the union leaders for negotiations.
- The negotiations or rounds of negotiations, may take place with parties trying to prove their point of view.
- Finally, an agreement may be reached by both the parties leaving their rigid stand and compromising in the larger interest of the workers and the industrial unit.

### Principles of Collective Bargaining Process

#### On the part of both Management and Trade Unions:

- The Collective Bargaining (CB) process should be made educative.
- To treat CB as a process to find best possible solutions and not as a means to achieve as much as one can.
- Both parties should command respect.
- There must be mutual confidence, good faith and a desire to make CB effective.
- There should be honest, able and responsible leadership on both sides.
- To observe and abide by all laws/Acts.

#### On the part of Trade Unions:

- Be friendly. No hostile attitude.
- Willing to listen the other side.
- Give opportunity to management to make its point of view.
- No aggression; but conciliatory approach.
- Don't advocate policy violations.
- Don't over-power which leads to distributive bargaining
- Maintain balanced Emotional Intelligence (EI).
- Do not put the blame on employees
- Don't be with problem. Try to suggest feasible solutions to their issue.
- Keep the membership in the meeting as small as possible.
- Respect the rights and compulsions of management.
- Don't take up any issue which is against policy and/or unreasonable.
- Do not encroach upon the rights and functions of Management
- Exhibit good, conciliatory and flexible attitude/behaviours

### Benefits of Collective Bargaining Process

- It enhances mutual trust, understanding and goodwill among the management and unions.

- It provide for feasible means for adjustment of wages and employment conditions in tune with the ever-changing economic and technological kaleidoscope of the country.
- It encourages Industrial democracy through 'Workers Participation in Management (WPM)'.
- It serves as an effective tool for healthy communication channel between management and employees which helps to maintain cordial Industrial Relations in the organisation.
- It enables develop a sense of self-respect, belongingness and responsibility among the rank and file in the organisation.
- It smoothens the inter and intra-union rivalries/conflicts.
- It brings both the parties i.e., Management and Union together for arriving at a common consensus of the issues confronting employees and organisation, thus helps the management to attain the corporate business goals.
- It enhances leadership qualities and communication skills among the representatives of both sides.
- CB, being the wheel of Industrial peace, helps maintaining good employee-employer relationship.
- It enables the organisation to avoid or overcome frequent interruption of work due to eventual strikes, go-slow, lock outs, etc.
- In short, it promotes stability and prosperity of the organisation and enables achieving efficiency in the organisation.

### Collective Bargaining Process i.e., Bipartitism in Banks

- The objectives of the bank unions were to ensure justice and adequate wages to its members. They have been fulfilling these objectives quite successfully. The practice of salary negotiations in the banks started almost – 56 years ago. Indeed, the first bi-partite settlement of October, 1966 in the banking industry is a turning point.
- Each bi-partite settlement witnesses discussions and settlements on the issues on which betterment is sought. Hence, the service conditions of Award Staff, i.e., Clerical and Sub-ordinate staff are governed by Sastry Award and Desai Award as modified from time to time through various measures including bi-partite settlements being entered into from time to time. As per the terms of the settlements, the tenure of the bi- partite settlement is for 5 years.
- The bi-partite settlements in the banking industry have set a tradition of resolving disputes, relating to the issues of salary and allowances, duty hours, medical aid and hospitalisation schemes, leave, computerisation, discipline.
- During the XIth Bipartite Settlement which was signed on 11.11.2020, a beginning was made by introducing '**Performance Linked Incentive**' (PLI) which is payable to Award Staff and officers in Banks which attained a minimum threshold level of net profit.
- Accordingly, the PLI is payable to all employees annually over and above the normal salary payable. The PLI matrix decides the amount payable to the

employees (in number of days of pay Basic + DA) depending on the annual performance of the bank.

**All the employees will get the number of days of pay as incentive depending on where in the matrix the bank's performance fits in broadly as per matrix under:**

Sl. No.	YoY Growth in Operating Profit	No. of days for which Salary (Basic + DA shall be paid
1	< 5%	Nil
2	5% to 10%	5 days
3	>10% to 15%	10 days*
4	>15%	15 days*

## CAIIB HRM Module D Unit 3- Employee Grievance Redressal and Discipline

### Grievance

- **Experts have attempted to distinguish between dissatisfaction, complaint and a grievance.**
- Dissatisfaction is a state or feeling of discontent, whether expressed or not. Dissatisfaction made known by one employee to another is a complaint. Dissatisfaction related to the work situation brought to the notice of management, is a grievance.
- **Dale Yoder defines grievance as** “a written complaint filed by an employee claiming unfair treatment.”
- **The International Labour Organisation (ILO) defines it as** “a complaint of one or more workers in respect of wages, allowances, conditions of work and interpretation of service stipulations such as overtime, leave and termination of service.”

### Causes & Effects of 'Grievance'

- There may be various causes for development of grievance within an employee. All these causes can be grouped under three broad heads, **Management-oriented, Employee-oriented and Inter/Intra-union traits.**
- **'Management-oriented' grievances** are such that are attributable to the sole actions or inactions of management of the organisation. There are certain organizations where, sound policies are framed, but due to varied attitudinal approach of the personnel holding the positions in the hierarchy, grievances may develop on the reasons of discrimination of one employee against another. Further, in certain organisations, a section of employees are said to be discriminated against others in implementing the policies on the premise of union affiliations thereby lending scope for harbouring the grievances among the workforce.
- **'Employee-oriented' grievances** are such which are related to sole actions, thinking process and psychology of the employees in the organisation. The employee develops a grievance within himself that such policies do not sub-serve

the needs, and thereby, seeks to amend such policies to match with the requirements. Grievances, may be borne out of jealousy and contempt among employees, it is for the management to tactfully handle such grievances.

- There may be certain grievances amongst the workforce which may develop due to the **inter/intra-union rivalries** in the organizations. Under this category, the grievances may develop amongst the workforce as a culminating effect of both the causes orienting towards management and employees. Organizations with multiple unions having a thin line of difference in its sizes, may also often witness individual grievances amongst its employees focusing at the management.

### **Grievance Redressal Mechanism**

- A grievance redressal procedure is a formal process which enables the parties to resolve their differences in a peaceful and expeditious manner.

***The procedure and mechanism involved in the process may have the following features:***

- Open communication channel.
- Understanding the employee point of view with sympathy.
- Identifying levels of authority where decisions can be taken speedily.
- Communicating the decision to the aggrieved employee without delay.
- Providing a scope for appeal and review where the employee is not satisfied with the decision.
- It is necessary to analyse the nature and types of the grievances and the causes. It is the responsibility of the personnel department to help the line managers in the formulation of the policies and their implementation so that the causes of grievances are reduced. These policies or programmes are **called grievance redressal procedure**.
- **The Code of Discipline** which was adopted in the 15th session of the Indian Labour Conference in 1957 provided for a draft grievance procedure. This was approved in the 16th session of the Conference in 1958 and was recommended by the Government of India as a **Model Grievance Procedure** for adoption by various organisations. Following this, some banks provided for a formal grievance machinery and widely circulated the information among the staff.
- Many banks have introduced a formal and robust procedure for resolution of grievances containing the authorities to whom the employees to lodge their grievances and also the appellant authorities to whom the grievance can be escalated, in case, the grievance is not resolved to the satisfaction of the concerned employee. Such procedure also prescribe time-lines within which period the concerned authority has to dispose off the grievance at his/her end.

### **Grievance Settlement Authority**

- The Industrial Disputes (Amendment) Act, 1982 provides for the reference of certain individual disputes to grievance settlement authorities. By this amendment a new section, namely, **Section 9C was added**.

- **Section 9C** of the Act requires the employer to set up **Grievance Settlement Authorities**. In every industrial establishment which employs 50 or more workmen, Grievance Settlement Authority is required to be set up for settlement of industrial disputes connected with an individual workman employed in the establishment.
- Where an industrial dispute connected with an individual workman arises the workman or any trade union of which the workman is a member refer the dispute to the Grievance Settlement Authority provided for by the employer. The Grievance Settlement Authority shall attempt to resolve the dispute.
- No reference shall be made under Chapter III of the Industrial Disputes Act with respect to any dispute referred **to under Section 9C unless** such dispute has been referred to the Grievance Settlement Authority concerned and the decision of the said authority is not acceptable to any of the parties to the dispute.

### **Administrative Measures Needed for Minimizing the Individual Grievances in Organizations**

- Establishing open communication channels – vertical, horizontal and cross-sectional. Encourage upward communication.
- Formulating reasonably stable and flexible policies/procedures which are to be periodically reviewed, evaluated, assessed and revised.
- Adopt and nurture a participative style of functioning. Seek referendum from its workforce on major policies so as to secure their acceptance
- Interpret policies uniformly among all workforce without any deviations.
- Management and unions should function cohesively with mutual trust and understanding, thereby creating an overall congenial atmosphere in the organization. The personnel handling grievances should possess broad, open and co-operative attitude.

### **Conflict Management**

- Conflict management is the approach and strategies geared towards achieving a positive outcome and resolution amongst the parties involved in matters relating to conflicts.
- These strategies and approaches are dependent on the type of conflict that exist, organizations, or institutions involved. It could be a systematic or unordered method that is task-specific, research-oriented, and requires proper attention.
- Conflict arises basically from different perception of a situation and the prestige and ego of the person perceiving the situation. The conflict resolution therefore would lie in the fact that the persons involved should endeavour to view the problem from the other's point of view, analyse the problem from a detached attitude, devoid of emotions and then attempt to solve the issue. It is likely that once an emotion-free approach is adopted, it may be easy to resolve the conflict.

### **Sources of 'Conflict' at Workplace**

- Conflict is a product of group dynamics and differing perceptions of the members of the group. It also is a function of emotions attached to the problem by the person, or his ego.

***Apart from these behavioural reasons, there could be other sources of conflict in a workplace as under:***

- **Status incongruence:** Differences in the status in an organisation involving a salary difference of employees with similar profile, or that one gets promoted and the other does not can lead to a conflict situation as the one who got promoted finds it difficult to interact with the other person freely. An attempt at counseling and a realistic assessment of the situation could help resolve the conflict.
- **Competitive work environment:** Goals set in a highly competitive environment, and the lack of equal opportunities for achieving the same can lead to major conflicts especially if career growth and monetary rewards depend on the successful attainment of these goals. A judicial approach to such goal setting and a fair opportunity for all to succeed may help save the situation.
- **Differences in value systems:** This is a common source of conflict. People come from different backgrounds, different up-bringing, different culture and religion at the work place. They are of different age groups. Their value systems as to inter personal interaction, societal references, etc., differ. This, sometimes, causes a problem in the organisation.
- **Inadequate communication:** Many of the conflicting situations arise due to improper, incorrect, inadequate communication in the organisation. The communication at times get distorted-though unintentionally-which creates confusion and problems. It will be observed that the sources of conflicts are manageable and conflicts can be resolved.

### Consequences of 'Conflict'

#### ***Positive effects of 'Conflict':***

- On the positive side, conflict can bring opportunity, development, and growth to individuals, groups, and organizations, resulting in increased cohesion and trust.

***This apart, positive consequences for individuals involved in conflict can encompass:***

- Reconciliation of interests/differences
- Improved sense of identity and solidarity
- Promotion of interaction between the parties
- Brings clarity on the real issue/s of conflict
- Foster positive attitude among the parties
- Increases trust between the parties
- Increases productivity and performance
- Cementing unity of the team

#### **Negative effects of 'Conflict'**

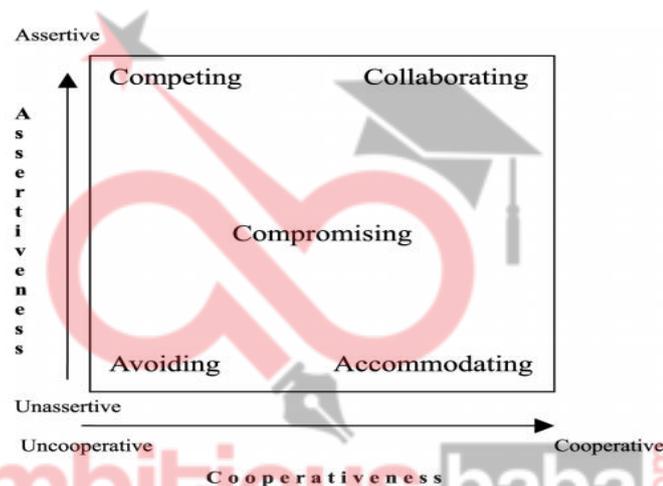
- Often the positive benefits of conflict are overshadowed by harmful consequences that result when disputing parties attempt to achieve their goals at the expense of others. Such forcing exchanges often bring about an escalation of the conflict that is difficult to reverse.

***When forcing methods are used, any of the following negative consequences can follow:***

- Escalation of minor conflicts into major conflicts
- Increase in number issues of the conflict
- Leads to upsurge of hidden interests in the conflict
- Breaking/straining of relationships between the parties

### **Conflict Resolution Techniques: 'Two Dimensional Model' of Conflict**

Within this two-dimensional model, Thomas and Kilmann (1974) have developed a popular framework that accounts for five styles of handling conflict: competing, collaborating, avoiding, accommodating, and compromising.



- **Collaborating:** The collaborative approach to conflict is to manage it by maintaining interpersonal relationships and ensuring that all parties to the conflict achieve their interests. This attitude toward conflict is one in which the individual acts not only on behalf of his/her self-interest, but on behalf of the other party's interests as well. This is a win-win posture, in which the stance of both the parties toward conflict management is win-win.
- **Compromising:** The compromise approach to conflict is to assume that a win/win solution is not possible and adopt a negotiating stance that involves a little bit of winning and a little bit of losing, with respect to both the interests and the relationships of the involved parties. The objective is to find some expedient, mutually acceptable solution that partially satisfies the interests of the parties involved. The parties' stance toward conflict management here is mini-win/mini-lose.
- **Accommodating:** This kind of conflict management requires that the parties involved accept the views of one another. The accommodating approach to conflict involves maintaining the interpersonal relationships at all costs, with

little of no concern for the interests of the parties involved. Giving in, appeasing, and avoiding the conflict are viewed as ways of protecting the relationships. This is a yield lose/win approach, in which one's party's stance toward conflict management is to yield-lose, allowing the other parties to win.

- **Competing:** This type of conflict management strategy often involves individuals who are assertive and have the will power to fight till they achieve their goal and the other losing. The competing approach to conflict involves taking the necessary steps to ensure that interests are met, whatever the cost to the relationships involved. Conflict is viewed as a win or lost proposition, with winning somehow equated with status and competence.
- **Avoiding:** This is a type of conflict management strategy where there is an existence of avoidance such that the avoiders ignore the conflict. The avoidance approach to conflict is to view it as something to be shunned at all costs. A central theme of this style is hopelessness, which results in a high degree of frustration for all parties involved. The parties' interests are usually not met, nor is the interpersonal relationship maintained in this approach. This approach might take the form of diplomatically sidetracking an issue, postponing an issue, or simply withdrawing from a threatening situation. This is a leave lose/win approach in which one party's stance toward conflict management is to leave-lose, allowing the other parties to win.

### Situations/Circumstances Warranting to Select a Particular Strategy/Approach

- There are empirical studies reveal that generally, the approach to conflict one should select is contingent on the circumstances of the particular situation. The specific applications that call for each of these approaches are grouped by strategy as follows, starting with the most preferred approach and ending with the least preferred.

S.No.	Circumstances of a particular situation	Recommended Style / Approach
1.	1. When concerns are too important for compromise. 2. When no party has a good solution. 3. When complete resolutions are needed and to eliminate left-over negative feelings. 4. When the long-term relationship and outcome are important.	Collaborating
2.	1. When the goal of outcome of the conflict is not worth the time and energy required for collaboration. 2. When a quick and temporary expedient settlement is acceptable. 3. When collaborating does not work out and the conflict cannot otherwise be resolved. 4. When the outcome is not crucial and you are losing time.	Compromising
3.	1. When one party has a resolutely better solution. 2. When the issues involved are considerably more important to one party. 3. When continued competition could damage the relationship, leading to escalated conflict in future. 4. When you really don't care a lot about the outcome but do want to preserve or build the relationship.	Accommodating

4.	<ol style="list-style-type: none"> <li>1. When quick, decisive action is expedient and vital.</li> <li>2. When an issue is vital to the long term success of the organization.</li> <li>3. When the needs of the other party are less or non-important.</li> <li>4. When you don't care about the relationship but the outcome is important.</li> </ol>	Competing
5.	<ol style="list-style-type: none"> <li>1. When the issue is trivial and it is better to postpone or you don't have as great a concern about the outcome</li> <li>2. When there is no possibility of either settling or resolving the issue.</li> <li>3. When there will be potential damage to the organisation</li> </ol>	Avoiding

### Management Dilemma

- A 'dilemma' is a complicated issue created when a manager has to accomplish more than one goal at a time, and at first glance there is no right answer. 'Dilemma' can also be defined as is the situation with two competing extremes where the actors are faced with "either... or..." choice.
- Thus, making decisions based on the "dilemma" approach means taking tough stands – situation that many managers are quite willing to avoid. When organizations are faced with the "horns of dilemma", it is their organizational top leadership culture, i.e. the prevailing values, norms and practices that will usually determine the type of choices being made.
- **'Dilemma Management' is the process of addressing complicated problems and resolving them in a systematic manner.**
- The nature of dilemmas each organisation come across is distinct and unique and as such it may not be possible to predict all such dilemmas. Hence, the management need to suitably equip with a well-knit mechanism which can pre-empt any such dilemma and to evolve effective measures to overcome them.
- No business is immune from dilemmas that, if not handled wisely and in a timely fashion, could cause decreased productivity, low employee morale and diminished profitability. But by responding strategically, such problems arise less frequently and pose little threat to the company's continued stability and success.
- Dilemmas can stem from a lack of foresight and preparation or from something completely out of your control. Either way, organisations must realize there is a problem and try to identify it as early as possible and address it timely but don't avoid it as, avoidance only escalates the issue. They can start by analyzing what the underlying issue is and if they could have avoided the dilemma altogether which will help them prepare for future complications.



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## CAIB HRM Module D Unit 4- Worker's Participation in Management

### Worker Participation

- Worker Participation implies arrangements designed to involve workers in the enterprises decision making process. This allows for workers' involvement in the initiation, formulation and implementation of decisions within the organisation which strives to reach its goals through people.
- Workers participation in management is considered as a crystallization of the notion of the industrial democracy. It is an expression of the employer's desire to bind his employees into a team working together toward a common objective.
- In India, a state sponsored experiment started in the year 1957-58 when the Indian Labour Conference accepted the recommendation of a working group to set up the Joint Management Councils. Prior to this, the Industrial Disputes Act, 1947 stipulated constitution of Works Committee consisting of representatives of employers and workmen in the industrial establishments in which 100 or more workmen are employed.

### **'Participation': Concept & Definition, Types**

**Three groups of managerial decisions affect the workers of any industrial establishment.**

- **Economic decisions** – methods of manufacturing, automation, shutdown, lay-offs, mergers.

- **Personnel decisions** – recruitment and selection, promotions, demotions, transfers, grievance settlement, work distribution.
- **Social decisions** – hours of work, welfare measures, questions affecting work rules and conduct of individual worker's safety, health, sanitation and noise control.

### The level of participation, in practice, ranges as under:

- **Informative participation:** refers basically to information sharing concerning the balance sheet, production schedules, etc.
- **Consultative participation:** in which a joint council is constituted which considers matters such as welfare programmes, safety procedures, etc. However, the decision making power rests with the management.
- **Associative participation:** Here, the role of the joint council is not limited to advisory body. The council's recommendations in the defined areas are implemented by the management.
- **Administrative participation:** Where the decision comes to the council with alternatives to select from for implementation. Still there is no participation in the decision-making process but there is a choice to be made from a few alternatives and the alternative chosen jointly will be accepted for implementation.
- **Decisive participation:** Here, the decisions are taken jointly on matters relating to production, welfare, etc.

### Benefits of Participation

- The confrontation or the level of resistance and resistance to change comes down.
- It ensures free communication and the channel for upward communication opens up. It helps in reducing the distortion or failure of communication and consequently implemented decisions become more effective.
- Joint decision-making reduces the conflicting situations and therefore the disputes. The productivity of the unit increases.
- Workers' Participation in Management (WPM) helps eliminating industrial disputes.
- It increases efficiency of employees.
- It prevents outside intervention and misleading by outsiders.
- It promotes an atmosphere of creativity among rank and file.

### Methods of Participation

#### Work Committees

- The Industrial Disputes Act, 1947 provides for constitution of works committees in units employing 100 or more workmen. It has equal number of representatives of workmen and management. However, the total number of members in the Works Committee should not be more than 20.

- The workers' representatives are to be chosen in consultation with the registered trade unions and from among the employees of the organisation. The works committees are constituted to promote measures of amity and good relations between the employer and workmen.
- The works committee is intended to smooth away friction that might arise between the workers and management at the shop floor or department level.
- An evaluation of works committees, however, indicates that they are not very effective. This may be due to the fact that they function essentially in advisory capacity. There is also inter-union rivalry. Another reason for failure is that works committees are perceived by the employees to be indirectly conflicting with the objectives of trade unions. This may be the major reason for the works committee being not very effective.

### Joint Management Councils

- While constituting works committees is a requirement as per the Industrial Disputes Act, Joint Management Council is a voluntary attempt to promote workers' participation in management. Joint Management Councils are established especially plant level in units employing 500 or more workmen. There are equal number of representatives from workers and management. However, the total number of members in the council not to exceed 12.
- The Council functions as a consultative forum, where the management shares information with it.
- Certain administrative responsibilities are also given to the Joint Management Council. The joint management councils are expected to work at the policy level (policy framing and implementation) without encroaching upon the functions of works committees. While evaluating, however, it is to be admitted that the Joint Management Councils do not seem to be getting adequate support. It may be due to the fact that these Councils basically are only at a level of consultative participation stage.

### Workers' Participation on the Board

- Another notable effort towards workers' participation in management at the level of decision making, is nomination of workers' representative on the Board of Directors of the company.
- In nationalized banks, the workmen directors are appointed under the provisions of Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, a Scheme made by the Central govt. The said scheme provides the procedure to identify the representative union for the purpose of appointing workmen director on the Board of Directors.
- The workmen director attends all the meetings of the Board and enjoys the same kind of rights as any other director has on the Board. The workers' participation is thus ensured at the highest level.
- Due to multiplicity of unions, this appointment becomes a matter of controversy and confrontation with the other union challenging the appointment, challenging

the membership number of the selected union and even challenging the membership verification process.

### Joint Consultative Committees

- In 1975, the government introduced this particular form of workers' participation in management. In the first stage the scheme was introduced in manufacturing and mining industries in units employing 500 or more workers.
- The scheme has a two-tier participation model, viz. shop councils for the shop-floor level, and joint councils at the enterprise level. Joint councils are constituted for each department with equal representation of employers and workers. The total representation is restricted to 12.
- The shop council works for increase in production, overall efficiency, elimination of wastage, etc. It identifies areas of low productivity, absenteeism and even takes corrective steps.

### Participation through Collective Bargaining (CB)

- Through the process of CB, management and workers may reach collective agreement regarding rules for the formulation and termination of the contract of employment, as well as conditions of service in an establishment
- For collective bargaining to work, the workers' and the employers' representatives need to bargain in the right spirit. But in practice, while bargaining, each party tries to take advantage of the other. This process of CB cannot be called worker participation in its strongest sense as in reality; CB is based on the crude concept of exercising power for the benefit of one party.

### Participation through Suggestion Schemes

- Employees' views are invited and reward is given for the best suggestion. With this scheme, the employees' interest in the problems of the organisation is aroused and maintained.
- Suggestions can come from various levels with the ideas ranging from changes in inspection procedures to design changes, process simplification, paper-work reduction and the like. Out of various suggestions, those accepted could provide marginal to substantial benefits to the company. The rewards given to the employees are in line with the benefits derived from the suggestions.

### Participation through Quality Circles (QC)

- The concept of QC was originated in Japan in the early 1960s and has now spread all over the world. A QC consists of seven to ten people from the same work area who meet regularly to define, analyse, and solve quality and related problems in their area. Training in problem-solving techniques is provided to the members. QCs are said to provide quick, concrete, and impressive results when correctly implemented.

### Advantages of QCs

- Employees become involved in decision-making, acquire communication and analytical skills and improve efficiency of the work place.
- Organisation gets to enjoy higher savings-to-cost ratios. Chances of QC members to get promotions are enhanced. Technical problems got solved. Workers got to get out of their daily routine and do something challenging.

### Disadvantages of QCs

- Trade unions look at it as a way of overburdening workers, and an attempt to undermine their role.
- These circles require a lot of time and commitment on the part of members for regular meetings, analysis, brainstorming and most QCs have a definite life cycle – one to three years.
- For QCs to succeed in the long run, the management needs to show its commitment by implementing some of the suggestions of the groups and providing feedback on the disposition of all suggestions.

### Employee Stock Option Plans (ESOPs)

- This scheme can be implemented in any company, or public sector undertaking, whose shares have been listed on the major stock exchanges of the country.
- In India, it is implemented in various Multi-National Companies (MNCs) and software companies such as Infosys, Wipro and TCS. They introduced this scheme basically to arrest the growing attrition rate which is admittedly very high in the software industry.
- ESOPs are Employee Stock Option Plans under which employees receive the right to purchase a certain number of shares in the company at a predetermined price, as a reward for their performance and also as motivation for employees to keep increasing their performance. Employees typically have to wait for a certain duration known as vesting period before they can exercise the right to purchase the shares.
- The main aim of giving such a plan to its employees is to give shares of the company to its employees at a discounted price to the market price at the time of exercise.

### **Indian Banking Experience On 'Workers Participation In Management (WPM)'**

- As regards the method of participation, the banks have adopted the model of participation on the Board of Directors. One director is nominated by the government on the board of directors of the public sector banks from the workmen union. The practice is to appoint the workman director from the union enjoying majority membership of the employees of the bank. Due to multiplicity of unions, this appointment in many banks has been a contentious issue.
- The banks are continuing with the model of participation at the Board level. The scheme also includes nomination of a representative of officers on the Board of Directors of the bank.

- The most popular method of workers' participation in management in banks is Collective bargaining process through periodical joint consultative meetings with representative unions.

## CAIIB HRM Module D Unit 5- Employee Discipline

### Discipline Management

- Discipline management involves creating an environment where employees voluntarily obey rules and regulations. It also means and includes handling cases of indiscipline or misconduct.
- There are various approaches to discipline management, where it is necessary to identify the causes of indiscipline, analyse the reasons, try to convince employees-through counselling-that they need to follow rules, and as a last resort, go in for punitive action.
- A progressive organisation should aim to reform the employees by right-sizing their attitudes rather than punishing them for their minor acts of omissions and commissions.

***Following are some steps, which should enable the organisation to ensure promotion of positive discipline:***

- The code of conduct, rules and regulations should be laid down clearly, with the consequences to the organisation in terms of losses and bad reputation which may result from not conforming to these norms, should also be clearly communicated to the workers.
- The norms and standards should be so decided that they are easy to adhere to. Setting impossible standards is bound to lead to deviation.
- Once the rules are framed, the adherence thereof must be insisted upon. Mere laying down of rules and regulations, and laxity in its implementation would not create an atmosphere of positive discipline.
- The laid down rules need to be modified periodically to ensure that outdated rules are removed from and new rules, wherever required, to be included in the rule book.

### **Employee – Counselling**

- Counselling as an established process ensures better compliance to rules, leading to more productive employees. In matters of discipline, counseling which involves advising an employee, works as a major morale booster even when the going gets tough.
- Counseling is an elaborate process which includes intent listening by the superior and adopting a positive approach to guide the employee the right way. When it is noticed that an employee has committed an act of misconduct which is of minor nature, the counselling process could be helpful.

- Depending on the kind of misconduct and the reason put forth by the employee, the counseling process may end by giving necessary advice to the employee and taking corrective step in implementation of the rule. Counseling thus does not result in inflicting any punishment on the delinquent.

### Reformative theory

- The reformative theory advocates that **“To err is human.”** Where one has to take a view of inflicting punishment on the employee for a proved act of misconduct, the disciplinary authority decides what kind of punishment, will meet the ends of justice, based on the kind of punishment which can be imposed for certain acts of misconduct; however, prudence demands that the employee be given an opportunity to improve and towards this, the punishment given is less harsh in the hope that the employee will appreciate the gesture and be motivated to improve the behaviour.
- A progressive organisation should aim to reform the employees by right-sizing their attitudes rather than punishing them for their minor acts of omissions and commissions. The approach should be to correct the erring employees rather than being too strict or too lenient. The process includes preliminary enquiries, counselling, verbal reprimand or warning.

### Principles of Natural Justice

- These principles are universally accepted set of rules which have survived the test of time. They ensure protection of rights of the individual employee. They provide a sort of guideline for disciplinary proceedings in all cases of misconduct.
- In essence, the principles say that there has to be a fair play, all along, during the disciplinary process, i.e., right from the issuance of charge sheet to the imposition of punishment, if the employee is found guilty of the charges. It states that the person who is proceeded against should have adequate notice of the proceedings against him/her, employees must have reasonable opportunity of being heard before the case is decided, and the authority must act impartially and in good faith.

***The principles of natural justice, including later additions to these principles, are enumerated below:***

- No man should be a judge in their own cause
- No one should be condemned unheard
- The employee proceeded against should be clearly informed of the charges levelled against him/her.
- The witnesses should be examined in the presence of the employee who should also be given a chance to cross-examine them
- The employee should be given a chance to examine their own witnesses
- Documents relied upon for proving the charge should be given to the employee for inspection
- The punishment to be imposed should be commensurate with the nature of the misconduct.

## Disciplinary Rules In Banks

- The Standing Orders prescribe the rules of an establishment in respect of disciplinary procedure. In the banks, the disciplinary rules originated in the tribunal awards and are presently a part of the First Bi-Partite Settlement of October, 1966. They are in respect of workmen or award staff.
- For the officers of public sector banks, the rules framed by the Officer Employees' (Conduct) Regulations and Officer Employees' (Discipline and Appeal) Regulations are applicable.
- For the other private sector banks, individual banks have their own rules for the workmen staff. And for the managerial staff, in view of **sec.14-B** of the Specific Relief Act, a personal contract of service cannot be enforced.

## Domestic Enquiry

- Departmental enquiry is not a mere formality but is a serious procedure and should, therefore, be conducted with due seriousness.
- Domestic enquiry is a quasi-judicial proceeding. Although the provisions of the **Evidence Act, 1872** do not apply, substantive principles of the Act should be kept in view.
- The scope of the enquiry is determined by the charge-sheet or articles of charge. It lays down the terms of reference for the enquiry officer. The enquiry officer should not go beyond the terms of charge-sheet.
- The employee proceeded against should be clearly informed of the charges levelled against.
- The entire proceedings should demonstrate a fair play on the part of the enquiry officer. If any doubt resides in a complex matter of what decision or ruling should be given, it is better to err in favour of the charge-sheeted employee.

### Domestic Enquiry - Enquiry procedure

- **Notice of enquiry:** The time, place and date of the enquiry should be clearly stated in the notice. Reasonable period should be given to the employee to prepare for the enquiry.
- **Venue:** The place of the enquiry should generally be the unit where the employee is posted.
- **Evidence:** Any statement made in support of charges must be made in the presence of the charge-sheeted employee so that he/she has an opportunity to question such a statement.
- **Witness:** A witness is a person who appears in the enquiry either in support of the charges or in support of the CSE. The statements made by the witness are considered as oral evidence. The witness should be examined first by the party producing him; this is known as examination-in-chief.
- **Persons who can be present at the enquiry:** Only those connected with the proceedings can attend the enquiry. They are: **(a)** the enquiry officer, **(b)** the management representative (MR), **(c)** the CSE, **(d)** the defence representative

(DR), (e) the witness whose evidence is being recorded and a typist or a stenographer who records the minutes of the proceedings.

- **The proceedings:** At the first hearing the enquiry officer should enquire from the CSE whether the person has received the charge-sheet and has understood the contents thereof. Then in the presence of his/her representative officer should put a question to him/her as to whether he pleads guilty to the charges. If he/she pleads guilty, the person should be asked whether he/she has understood the consequences of his/her pleading guilty and whether he/she is doing so at his/her volition. Answers to these questions should be recorded, preferably, verbatim. If the CSE does not plead guilty to any or all the charges, the enquiry officer should ask the management representative to lead the case in support of charges.

### **Fraud in Banks**

- **'Fraud' is a wrongful or criminal deception** intended to result in financial or personal gain. It can also be defined as an act or course of deception, an intentional concealment, omission, or perversion of truth, to **(1)** gain unlawful or unfair advantage, **(2)** induce another to part with some valuable item or surrender a legal right, or **(3)** inflict injury in some manner.
- The most common fraud that occurs in banks relate to shortage of cash when crediting a person's account or when paying out over the counter. Higher versions of fraud involve sanction of loans and advances on the basis of fraudulent documents.
- Most such litigation and enquiry are conducted in the public sector banks as officials of PSBs are considered to be public servants and are liable for disciplinary action under the provisions of the **Disciplinary and Conduct Rules of the Bank.**

### **Cyber Crime and the Banking Sector**

- **PwC's Global Economic Crime Survey of 2020**, revealed that cyber crime has now reported crime globally and that 47% of organisations have been hit with cyber crime in the last two years.
- While there are numerous threats aimed at bank systems and their customers, one of the biggest threats, and often one of the hardest to detect, is that of malicious, careless and compromised users. These employees, contractors and partners are already inside the banks secure perimeter and have legitimate access to its sensitive data and IT systems.
- When these insiders abuse their privileged access or are compromised by external attackers, the valuable data is easily exposed. As banks continue to expand online and mobile access, they also expand the attack surface. As such, they must be vigilant against Distributed Denial of Service (DDoS) attacks and web application attacks such as credential stuffing.

### **Ways IT can secure against bank cyber attacks**

- **Respond as if the network has already been breached:** Adopting this mindset forces the IT team to prioritize the most business-critical parts of the network and use network segmentation as a strategy. When done correctly, network segmentation, achieved through the creation of network zones, limits the ability for a hacker to move laterally across a compromised network but network segmentation requires continual updates and configurations.
- **Implement an enterprise-wide security policy:** A well-defined security policy serves as a crucial road map for any bank IT team to maintain a truly adaptive security architecture. It's what helps the people tasked with protecting the bank's systems determine the best way for the network to operate with minimal risk. Additionally, the security policy should take into consideration all regulatory and enterprise compliance requirements and how to apply timely patches to maintain compliance.
- **Security policy enforcement:** It's one thing to have a security policy that defines how the IT platform behaves and another to actually validate that it is being enforced across your network. Doing the former but not the latter might allow you to comply with some regulations, but it won't make your network safer.
- Organizations must constantly monitor their network for changes to configurations and ensure that these changes are approved and compliant with policy. It's a Collaborative effort across the enterprise—network operations, security operations, and the CIO.

### **The Risk Attached To Delegation Of Financial Powers**

- All organisations that have different layers of staff as well as functions spread over various geographical areas have the need to delegate power and authority to officials at various levels. Thus, typically in a bank, the top management functions at a strategic level with very little exposure or involvement in day to day affairs of the Bank.

**A cursory glance at various activities in a bank would reveal a broad division of functions and responsibilities as under:**

<i>Level</i>	<i>Authority</i>
Top Management	Strategy and sanction of loans of large amounts.
Senior Management	Regional Large Branch Level. Sanction of Loans and Advances both Retail and Wholesale.
Middle Management	Large Medium Branches. Sanction of Loans more in Retail.
Junior Management	Processing of Loan Applications.

The risks associated with delegation of authority essentially refers to the **possible misuse of financial powers**. The best preventive measure is by **training employees in the correct procedure, by putting in checks and balances at every stage of a proposal** being prepared and approved and also a measurement system which gives indication of deviations if any from the laid down procedure which are considered as early indicators of defaults which again could be related to fraudulent activity.

### **Need For Vigilance Department In Banks**

- The Central government through a statute, constituted **Central Vigilance Commission (CVC)** consisting of three Vigilance Commissioners out of whom one is designated as Chief Vigilance Commissioner.
- The Central Government has defined the role of **Chief Vigilance Officer** and all public sector undertakings including banks are required to have a Chief Vigilance Officer at a senior level who would be in a position to influence decisions and developments that could prove detrimental to the financial stability of the Bank.
- These CVOs come under the administrative control of CVC but not the bank management. The Chief Vigilance Officer has a Department both at the Central Office as well as at major regional offices so that preventive measures could be taken by these officers as soon as they come across any signals that could lead to frauds in banks.
- As per the directives of CVC, each Regional / Zonal Officers of the Banks should have one **Vigilance Officer not below the rank of Chief Manager** who shall function directly under the administrative control of Chief Vigilance Officer (CVO) at Corporate Office.
- The roles and responsibilities of VOs have been clearly defined by CVC and they need to oversee the cases of frauds and other vigilance related issues including preventive vigilance matters in their respective Regions/ Zones and to directly report of CVO.

### **The Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013**

- It is a legislative act in India that seeks to protect women from sexual harassment at their place of work. The Bill got the assent of the President on 23 April 2013. The Act came into force from 9 December 2013. This statute superseded the Vishakha Guidelines for prevention of sexual harassment introduced by the Supreme Court of India.

#### **Major Features of the Act**

- The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.
- The Act also covers concepts of 'quid pro quo harassment' and 'hostile work environment' as forms of sexual harassment if it occurs in connection with an act or behaviour of sexual harassment.
- The definition of "**aggrieved woman**", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.
- While the "workplace" in the **Vishaka Guidelines** is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes

much further to include organisations, department, office, branch unit etc, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation. Even non-traditional workplaces which involve tele-commuting get covered under this law

- **The Committee is required to complete the inquiry within a time period of 90 days.** On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to take action on the report within 60 days.
- Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The District Officer is required to constitute a Local Complaints Committee at each district, and if required at the block level.
- The Complaints Committees have the powers of civil courts for gathering evidence.
- The inquiry process under the Act should be confidential and the Act lays down a penalty of Rs. 5000 on the person who has breached confidentiality.
- The Act requires employers to conduct education and sensitisation programmes and develop policies against sexual harassment.
- Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to ₹ 50,000.
- Government can order an officer to inspect workplace and records related to sexual harassment in any organisation.

#### Penal Code

- Through the Criminal Law (Amendment) Act, 2013, Section 354 was added to the Indian Penal Code that stipulates what consists of a sexual harassment offence and what the penalties shall be for a man committing such an offence.
- Penalties range from one to three years imprisonment and/or a fine. Additionally, with sexual harassment being a crime, employers are obligated to report offences.

#### **Amendment to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in May 2016**

- There was an amendment to the Sexual Harassment at Workplace Act in May 2016. According to this amendment, the nomenclature was changed from 'Internal Complaints Committee' to 'Internal Committee' and 'Local Complaints Committee' to 'Local Committee'.

***The role of Internal Committee (IC) is enhanced, they will have to ensure they work towards prevention and prohibition:***

- Create a culture of zero tolerance against sexual harassment at workplace.
- Train your employees, managers and committees to identify such behavior and raise it.
- Practice open door policy! Encourage employees to clarify doubts and ask questions.
- Be pro-active and ensure IC constantly works towards building safety, security and conducive workplace for their employees.
- Have very effective guidelines for disciplinary action, code of business conduct.
- Keep a vigilant eye and take preventive measures to advocate harmonious workplace. Sharing case studies with employees and their outcome on the subject is recommended.
- Changing the way IC team is called has clearly enhanced their role in the organisations. They have to now work towards making workplace “free of harassment”. It is the role of the employer and IC to provide employees with favorable workplace.

### **Compliance Rules of ‘POSH ACT’**

- **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**, commonly referred to as the ‘POSH Act’ is an Indian law was made effective in the whole of India on December 9, 2013, by the Ministry for Women and Child Development.

**The PoSH Act protects all women employees in the workplace from sexual harassment regardless of whether:**

- They are employed regularly, temporary, ad hoc or daily wage basis.
- They are employed directly or through an agent or a contractor.
- They are employed with or, without the knowledge of the principal employer.
- They are employed for remuneration or on a voluntary basis.
- The terms of employment are expressed or implied.

The POSH Act also applies to women contract workers, probationers, trainees, apprentices and interns

***Section 2(n) of the said Act defines the term ‘Sexual harassment’ to include the following unwelcome acts:***

- Physical contact and sexual advances.
- A demand or request for sexual favours.
- Making sexually coloured remarks.
- Showing pornography.
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

### **Employers’ Responsibilities Mandated under the Act**

- **Provision of a safe working environment in the workplace**

- **Constitution of an Internal Committee in every workplace with more than 10 employees:** The IC is responsible for hearing and redressing any complaints pertaining to sexual harassment in such workplace.
- **Constitution of the Local Committee in every District** for hearing and redressing complaints of sexual harassment from workplaces that may have fewer than 10 employees.
- **An in-depth inquiry into all complaints of sexual harassment:** The IC/LC, is required to conduct an inquiry into every complaint of sexual harassment in accordance with the provisions of the service rules applicable to the respondent within ninety days (90 days).
- **Organisation of workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act**
- **Punishment for false and malicious complaint and false evidence:** If the IC/LC finds that an allegation of sexual harassment is false, it can recommend the employer or District Officer to take action the woman or the person who has made the complaint in accordance with the provisions of the service rules applicable to them.

### **Constitution of Internal Committees (ICs)**

*As per the Act, the following composition shall be adhered to in constituting the Internal Committees (ICs):*

Presiding Officer	Woman employed at a senior level at the workplace from amongst the employees.
Members	Not less than 2 members from amongst employees. Preferably committed to the cause of women or who have had experience in social work or have legal knowledge.
External Member	From an NGO or association committed to the cause of women or person familiar with issues relating to sexual harassment.
<ul style="list-style-type: none"> <li>• Not less than half of the IC Members shall be women.</li> <li>• The term of the IC Members shall not exceed 3 years.</li> <li>• A minimum of 3 Members of the IC including the Presiding Officer are to be present for conducting the inquiry.</li> </ul>	

### **Powers of the Internal Committee (IC)**

The POSH Act stipulates that the IC and LC shall, while inquiring into a complaint of workplace sexual harassment, have the same powers as vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of:

- Summoning and enforcing the attendance of any person and examining him on oath
- Requiring the discovery and production of documents
- Any other matter which may be prescribed

### **Inquiry & Timelines as Prescribed Under the Act**

- Written complaints (6 copies) along with supporting documents and names and addresses of witnesses have to be filed within 3 months of the date of the incident. Timeline extendable by another 3 months.

- Upon receipt of the complaint, one copy of the complaint is to be sent to the respondent within 7 days.
- Upon receipt of the copy of complaint, the respondent is required to reply to the complaint along with a list of supporting documents, and names and addresses of witnesses within 10 working days.
- The Inquiry has to be completed within a total of 90 days from the receipt of the complaint.
- The Inquiry report has to be issued within 10 days from the date of completion of inquiry.
- The employer is required to act on the recommendations of the IC/LC within 60 days of receipt of the Inquiry report.
- Appeal against the decision of the committee is allowed within 90 days from the date of recommendations.

### **Punishments and Compensation Prescribed Under the Act for Proven Acts of Sexual Harassment**

- Punishment prescribed under the service rules of the organization (i.e., as per the provisions of Bipartite Settlements in respect of Award Staff and as per the provisions of Conduct Regulations in respect of Officer staff in Public Sector Banks).
- If the organization does not have service rules, disciplinary action including written apology, warning, reprimand, censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service, undergoing a counselling session, or carrying out community service.
- Deduction of compensation payable to the aggrieved woman from the wages of the respondent.

### **Maintaining Confidentiality**

- Recognising the sensitivity attached to matters pertaining to sexual harassment, the POSH Act specifically stipulates that information pertaining to workplace sexual harassment shall not be subject to the provisions of the Right to Information Act.
- Breach of the obligation to maintain confidentiality by a person entrusted with the duty to handle or deal with the complaint or conduct the inquiry, or make recommendations or take actions under the statute, is punishable in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, a fine of Rs.5000/-.

### **Penalties for Non-Compliance of the Provisions of the Act**

- The POSH Act takes a firm stand against non-compliance of its provisions. If an employer fails to either constitute an Internal Committee, or discharge any of the other duties placed upon them under the act, they shall be punished with a fine which may extend to fifty thousand rupees (Rs. 50,000).

- In the event an employer contravenes the provisions of the POSH Act a second, they may be either fined twice the amount as the fine for the first contravention, or face cancellation of their license, permit or registration for carrying on their business or activity.



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