



Aatma Capital
Nurturing Relationships



Industrial Relations Code, 2020

Part II

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A member of



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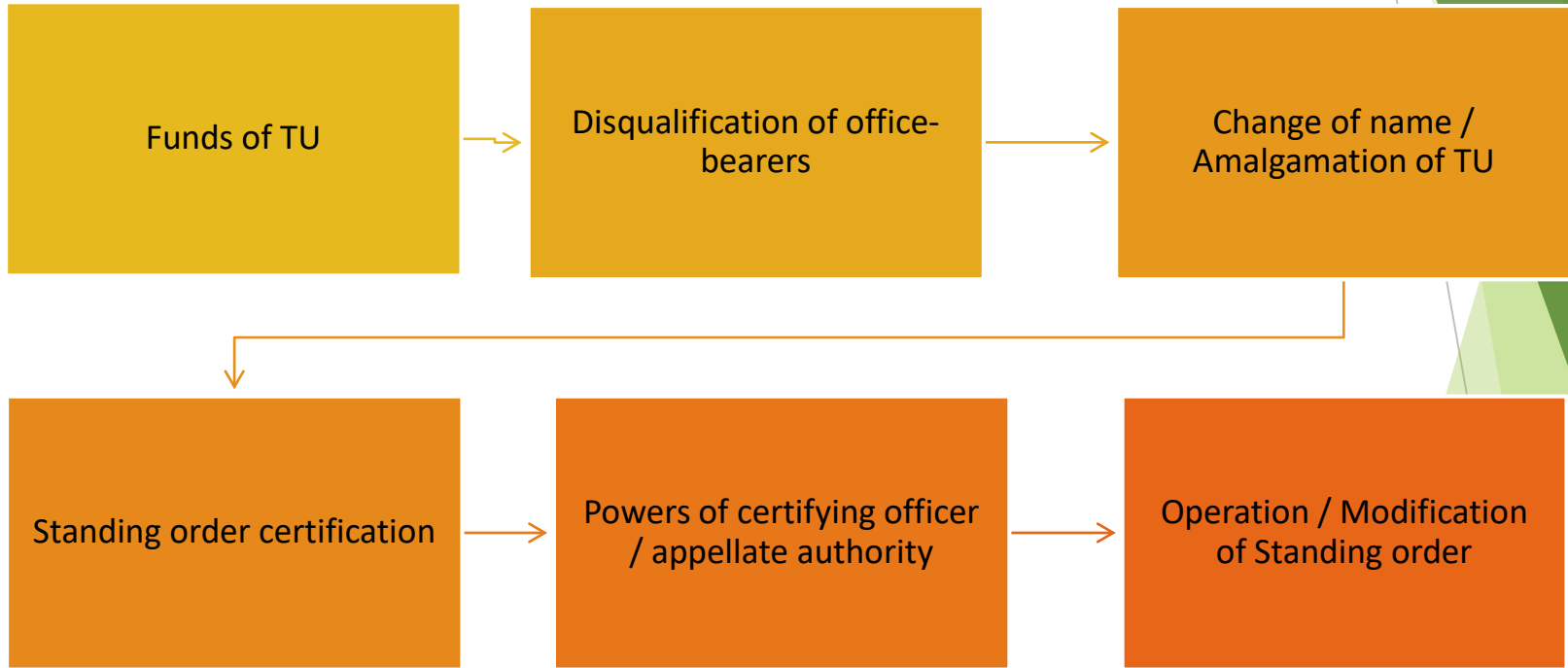
Credits and Acknowledgments

Iswariya BS

Legends used in the presentation

Code	Industrial Relations Code
CG	Central Government
PF	Provident Fund
SG	State Government
TU	Trade Union

Presentation Schema



Definitions

Certifying Officer means any officer appointed by the appropriate Government, by notification, to perform the functions of a certifying officer under the provisions of Chapter IV

Office-bearer in relation to a Trade Union, includes any member of the executive thereof, but does not include an auditor

Standing Order means orders relating to matters set-out in the First Schedule

Contd.

Wages means all remuneration, whether by way of salary, allowances / otherwise, expressed in terms of money / capable of being so expressed which would, if the terms of employment, express / implied, were fulfilled, be payable to a person employed in respect of his employment / of work done in such employment and -

Includes:

- (i) basic pay
- (ii) dearness allowance
- (iii) retaining allowance, if any

Excludes:

- Bonus
- Any amenity / service excluded from computation of wages by general / special order
- Contribution by employer to Pension / PF / its interest
- Conveyance allowances
- Remuneration paid by any award / settlement / order
- Allowances, gratuity, commission
- Retrenchment compensation / retirement benefit

Chapter III – Trade Union

Funds of TU: General funds of TU shall not be spent on any objects other than the ones as may be prescribed

Separate Fund: A registered TU may constitute a separate fund to promote civil and political interests of members

- No compulsion for contribution
- Non-contributed members shall not be excluded from any benefits of TU / placed in any respect under any disability or disadvantage as compared with other members of TU (except in relation to control / management of the fund)
- Contribution – shall not be made as a condition for admission

Immunity from Civil suit in certain cases:

- No suit shall be maintainable against any registered TU / office-bearer / member for act done in contemplation / furtherance of an industrial dispute - to which a member of the TU is a party on the ground only that such act induces some other person to break a contract of employment / that it is an interference with trade, business / employment / right of some other person to dispose of his capital / labour as he wills
- No civil suit / legal proceeding shall be maintainable against TU for any tortuous act done by an agent of the TU, if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union

Contd.

Office-bearer / member of TU not liable: For any agreement made between members for furthering the objects of TU as specified in Sec. 15

If an agreement is made to commit an offence: Imprisonment: <6 months / Fine / both

Agreement between members:

- Shall not be void / voidable by reason that objects of such agreement are in restraint of trade and
- Shall not enable any civil court to entertain any legal proceedings instituted for enforcing / recovering damages for the breach of agreement concerning the conditions on which any member shall or shall not sell goods, transact business, work, employ or be employed.

Books of accounts and list of members: Is open for inspection to an office-bearer / member of TU at such times as provided in their rules

Right of minor to be a member of TU: On attaining 14 years of age and employed in a non-hazardous industry subject to any rules of the TU, enjoy all rights of a member

Contd.

Disqualification of office bearer:

- < 18 years of age
- Convicted an offence involving moral turpitude and sentenced to imprisonment – 5 years not elapsed
- Disqualified by Tribunal
- Member of the Council of Ministers / person holding an office of profit in the Union / State

Dispute between TU / Member / workers / TU which is a Federation of TU and office bearer authorised by TU: Application to Tribunal (having jurisdiction) and no civil court can
Office-bearers in Unorganised sector (as specified by the Government): Not less than ½ of total number of officer bearers shall be persons actually engaged / employed in an establishment / industry with which TU is connected

For other sectors: All office-bearers of a registered TU, **except not more than 1/3 of total number of officer bearers or 5**

Contd.

Right to change name / amalgamate:

Change of name- With the consent of not less than 2/3 of total members

Amalgamation- With any 2 or more registered TUs as prescribed and it shall not prejudice any right of TU / their creditors

Notice in writing signed by the secretary and 7 members for change of name and for amalgamation secretary and 7 members of each and every TU, shall be sent to the Registrar and if the head office of the amalgamated TU is situated in a different State, to that Registrar in such manner as may be prescribed

Proposed name identical / nearly resembles an existing TU – Registrar can refuse to register the change of name

Amalgamated TU head office in different state: Registrar can register the same on being satisfied and amalgamation shall have effect from that date

Change in the name shall not affect TU's rights / obligations / render defective any legal proceeding by / against it and any legal proceeding continued / commenced in its former name can be continued / commenced in its new name

Contd.

Dissolution of TU: Notice of dissolution signed by 7 members and secretary be sent to Registrar within 14 days of dissolution for registration, and the same have effect only on such registration

And the funds of TU be distributed by Registrar amongst the members in such manner as may be prescribed (if rules of TU do not provide for the same)

Annual returns: Statement of receipts and expenditure audited (during the year ending on 31 /12), statement of assets and liabilities audited (as on 31/12), general statement showing changes of office-bearers and rules (latest) be sent to Registrar

In case of any change in rules of TU, it shall be sent to Registrar within 15 days of alteration

Registrar / any officer authorised by him by general or special order, may inspect the documents relating to TU at the registered office OR may require production of documents at such place within 15 km from the registered office of TU

Recognition of TU / federation of TU: CG / SG may recognize it at Central level / State level respectively and if any dispute arises in relation to such recognition, it shall be decided by such authority as prescribed by the respective Governments

Chapter IV – Standing Orders

Applicability & Non-applicability:

Applicable: \geq 300 workers are employed / were employed on any day of the preceding 12 months

Not Applicable: To an Industrial establishment where workers employed are persons to whom the following Acts apply-

Fundamental and Supplementary Rules, Civil Services Rules and Regulations, Revised Leave Rules, Civilians in Defence Service (Classification, Control and Appeal) Rules / the Indian Railway Establishment Code / any other rules / regulations that may be notified

Model standing order framed by CG: CG shall make model standing orders relating to conditions of services and connected matters

From the date of application of this section till the date on which standing order is finally certified, the model standing order shall deemed to be adopted in that establishment and provisions of this Chapter shall apply as they apply to certified standing order.

Standing order certification

Contd.

Employer shall prepare draft standing orders within 6 months of commencement of Code, based on the model standing order framed by CG

Standing order shall contain the contents as specified in First Schedule*

Parties to be consulted while drafting- TU / negotiating union / members of negotiating council

Upon consultation it shall be forwarded (along with particulars of workers, TU, negotiating union / council, if any) either electronically / otherwise to Certifying officer for certification and the same shall be amended as directed by the officer, if any

If model standing order is adopted, it shall deemed to be certified under this Code. Employer shall inform about the same to the concerned certifying officer

Modifications to standing order: It shall be drafted within 6 months of application of this Chapter and forwarded (along with particulars of workers, TU, negotiating union / council, if any) to certifying officer for certification of modification

Contd.

Certification by Registrar: On receipt of drafts from the employer, the certifying officer shall issue notice to TU / negotiating union / negotiating council / representative of worker (if there is no TU) for seeking their comments

On receipt of comments, an opportunity of being heard will be given to them, before certifying the standing order and such certification will be made only if the same satisfies the provisions of the Code

Time limit for certification: Within 60 days of receipt, failing which the draft orders will deemed to be certified as on the expiry date

Certified copy of order: Within 7 days of certification it shall be forwarded to employer and the parties consulted

Operation of Standing order: On expiry of 30 days from the date of sharing the certified copy

Language of Final Copy: It shall be maintainable by the employer in such language and in such manner for the information of the concerned workers as prescribed

Adjudication: By certifying officers / appellate authorities about fairness / reasonableness of any provisions of standing order

Contd.

A group of employers in similar establishments can submit a joint draft of standing orders and in that case parties of each establishment has to be taken into account

Existing Standing orders shall be deemed to be certified under this Code, if it is not inconsistent with the provisions of the Code & the provisions of this Chapter shall apply

First Schedule

Matters to be provided in standing orders-

Classification of workers, whether permanent, temporary, apprentices, probationers, badlis / fixed term employment

Manner of intimating to workers periods and hours of work, holidays, pay-days and wage rates

Shift working

Attendance and late coming

Contd.

Conditions of, procedure in applying for, and the authority which may grant leave and holidays

Requirement to enter premises by certain gates, and liability to search

Closing and reporting of sections of the industrial establishment, temporary stoppages of work and the rights and liabilities of the employer and workers arising therefrom

Termination of employment, and the notice thereof to be given by employer and workers

Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct

Means of redress for workers against unfair treatment or wrongful exactions by the employer or his agents or servants

Any other matter which may be specified by the appropriate Government by notification

Power of Civil Court: Certifying officer & appellate authority shall have all powers of a civil court within the meaning of the Code of Criminal Procedure, 1973 and have all the powers of a civil court for –

- receiving evidence,
- administering oath,
- enforcing the attendance of witnesses and
- compelling the discovery and production of documents

Correction in orders made by Certifying officer: Clerical / arithmetical mistakes / errors arising from any accidental slip / omission may be corrected by that officer / successor in office of such officer

Appeal against the order of Certifying officer: Employer / TU / negotiating union / negotiation council / representative of workers can file an appeal within 60 days of order of Certifying officer to the appropriate appellate authority, if they are not satisfied with the order and the authority shall dispose the appeal in the manner as may be prescribed

Contd.

Operation of Standing order if appeal is preferred: On expiry of 7 days from the date on which copies of the order of the appellate authority are sent

Register of Standing Orders: Final copy of certified orders shall be filed by the certifying officer in a register maintained for the purpose / uploaded in electronic form / such other form as prescribed

Certifying officer to furnish copy of standing orders: To any person who is applying for the same on payment of such fee as prescribed

Modification of standing orders: Not allowed for a period of 6 months from the date of operation of order / last modified order

Exception: If an agreement is made between employer and workers / TU / Negotiating union / representative body of workers

Application for modification: It shall be made along with copies of modification and agreement, if any to certifying officer. The provisions of this Chapter shall apply to this application as they apply to the certification of the first time standing orders

Contd.

Oral evidence not admissible in any court

- Which are having the effect of adding to / otherwise varying / contradicting standing order as finally certified under this Chapter

Interpretation of Standing orders

- If any question arises as to the application / interpretation of order / any modification therein, the parties may apply to the Tribunal (within territorial jurisdiction).
- Such Tribunal after giving an opportunity of being heard to all the concerned parties, decide the question and its decision shall be final and binding on employer and workers

Suspension of worker by employer

- Pending investigation / inquiry into complaints / charges of misconduct against such worker shall be completed ordinarily within a period of 90 days from the date of suspension

Contd.

Standing order / modified order shall provide for subsistence allowances to be paid* to such suspended worker for the suspended period

*Allowances %

→ **50% of wages** (entitled immediately preceding the date of suspension) for 1st 90 days of suspension

→ **75% of wages** (entitled immediately preceding the date of suspension) for the remaining period of suspension, if the delay in the completion of disciplinary proceedings against such worker is not directly attributable to the conduct of such worker

Exemption by appropriate government: Any industrial establishment / any class of industrial establishment from any provisions of this Chapter, either conditionally / unconditionally



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