



# TYPES OF STRIKES AND IT'S CONSTITUTION

By

**S.Dhivya**

**D.Brindha**

**K.Bagavathi**

## ABSTRACTS

This paper presents a through examination of strikes within the framework Of Labour law, shedding light on their definition and legal implications. As Integral components of industrial relations, strikes are scrutinized from a Legal perspective to illuminate their complexities and significance in Contemporary Labour contexts.

The study initiates by defining strikes within the ambit of Labour law, Scrutinizing diverse legal definitions and classifications prevalent across jurisdictions. Furthermore, the paper navigates through the legal landscape Governing strikes, emphasizing pertinent statutes, regulations, and judicial Precedents. It underscores key provisions of Labour legislation, including the Industrial Disputes Act, 1947, and the Trade Union Act, 1926.

**Key words:** strike, Industrial disputes Act 1947, Trade union Act 1926, workers, employee, and employer.

## INTRODUCTION

Trade unions and other labour organisations utilise strikes as a very effective tool to get their demands met. It usually entails a group of employees quitting their jobs in order to put pressure on their employer to grant their requests. Workers are considered to be on strike when they collectively stop working in a specific industry. A work stoppage brought on by the widespread refusal of employees to work is known as a strike action, labour strike, on strike, greve (of French: grüge), or simply strike. Employee complaints are typically the cause of a strike. During the industrial revolution, when mass labour became crucial in mines and factories, strikes gained significance. Because factory owners had significantly more political clout than workers, they were swiftly outlawed in the majority of countries. In the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, striking became largely lawful in the majority of western nations. Without a question, strikes are the most powerful tool available to workers, and labour rules support them if they follow certain guidelines.

## STRIKE

According to Section 2(q) of the Industrial Disputes Act, 1947, the word Strike means “a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal, under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment”

Strikes occur in different places. In labour law, the concept of strike occurs mainly in industries and various sectors. A strike is the result of a dispute, which is often between the employer and employee. The employees lead the strike for the demand in the industry. The demand may be of different kinds; it may be for their good working environment, for fair wages, or for their benefits.

The right to strike is acknowledged by the legislation as a statutory right. The number of labour strikes can depending upon prevailing.

Employees of *Kingfisher Airlines* went on strike for a few days since the firm had not paid their salaries for nearly seven months. Employee protests against unpaid salary took out on the streets as a result of the strike, which took many different forms. At worst, an airline employee's wife killed herself as a result of an intolerable financial crisis brought on by her husband's months-long unpaid payments.

Reasons for strike:

- Dispute relating to minimum wage.
- The question of pay and incentives.
- Dissatisfaction with the policy of the company.
- Work hours and interval schedules.
- Paid vacations & holidays.
- Bonuses, provident, fund and gratuity.
- Withdrawals of any allowed facility.
- The worker was wrongfully dismissed.

## TYPES OF STRIKES

**i. General Strike :** In order to create a common list of demands, the union may conduct a general strike, which is carried out throughout India.

This will be done in order to comply with the government's creation or improvement of laws pertaining to minimum wages, the elimination of the contract employment system, and the organisation of the unorganised sector. Labour law strikers frequently utilise these kinds of strikes to call for improvements in economic conditions. They are frequently observed among government workers as well as in industries like railroads and the Post and Telegraph Department.

**ii. Go slow strike:**

This is a workplace strike where employees deliberately slow down the production process. This can be regarded as a type of dishonesty since it causes machinery to run more slowly and produce less.

**iii. Stay in strike:**

During a stay-in strike, employees congregate at their place of employment but do not leave, when employees refuse to leave the workplace effectively squatting on the property, this situation can get difficult legal.

**iv. Quick or Lightning Strike:**

In labour law, it is referred to as abrupt labour action. The necessary notice time is not followed while starting these strikes. Because of the lack of warning, these strikes are typically regarded as unlawful from the start. Employees who participate in an unlawful strike may be subject to fines, jail time, and other disciplinary measures.

**v. Sympathetic strike:**

These strikes are organised in support of other unions or industry workers who have already gone on strike against their employers. Supporting a single industry that is on strike is the primary goal. There are no specific demands or grievances that striking employees have against their company. Occasionally, employment law may not regard this strike as legitimate.

**vi. Hunger strike:**

According to labour legislation, these strikes are started by employees as a form of protest for not eating. If certain statutory restrictions are violated by their actions, this strike in India may be deemed unlawful. The Satyagrah, or hunger strike, led by Mahatma Gandhi sought to accomplish noble objectives pertaining to truth.

**vii. Token strike:**

It is a short-term strike that lasts for a few hours each day with the specific goal of demonstrating solidarity. This strike may last for a few hours or a single day. A peaceful token strike is not seen as unlawful in many jurisdictions because it was started with the appropriate notice and procedures. The workers who are taking part demonstrate their solidarity by protesting the shared demands and objectives.

## IMPACT OF UNLAWFUL STRIKE

**1. Economic Impacts :** Workers' strikes in unions or industries result in severe rules pertaining to employment. Strikes cause delays, a halt to industry production, and a decline in sales, all of which have a negative impact on the company's industry's market goodwill for both employers and employees.

**2. Social impact:** The social impact of the strike or it mostly affect the workers by losing their wages and also have the risk in losing their jobs. This may severely affect the workers family.

- ✓ *Sugar Mills Ltd. V. Workers*, some employees who held important positions in the mill went on a hunger strike at the managing director's home. As a result, even workers who appeared for duty were unable to find employment. It was decided that the workers' coordinated hunger strike qualified as a strike for the purposes of this subsection.
- ✓ *Metallurgical Corporation, Madras v. Kambalingam* When employees collectively skip work due to compassion for a cause completely unrelated to their jobs or even the working conditions of other employees under different management, it cannot be considered a strike because the necessary component of the intention to use it against management is not present. As a result, the management would have the right to take disciplinary action against the employees for their absence on the grounds that they violated their terms of employments.

In the case of *Punjab National Bank v. Their Employees*, the court noted that during a strike, the employer may prevent the strikers from entering the premises by taking appropriate and legal action. When workers refuse to leave, he has the authority to suspend them from their jobs, make appropriate enquiries in accordance with the standing order, and issue appropriate orders against them in accordance with the relevant Act provisions.

## STRIKE AND ITS CONSTITUTIONAL VALIDITY

### \*ARTICLE-19(1) (a):

The Indian Constitution's Article 19(1)(a) safeguards people's right to free speech and expression. Although the right to strike is not specifically mentioned in this article of labor law, a peaceful strike and any form of peaceful protection can be viewed as an extension of the right to free speech and expressions.

### \*ARTICLE-19(1) (b):

The right to peacefully and unarmed assembly is guaranteed by Article 19(1) (b) of the Indian Constitution. The concept of strike in labour law does not include an explicit or fundamental right to strike. In the decided case, the Supreme Court held that this article does not extend to the right to strike, which is regarded as a separate matter.

In *Delhi Police v. Union of India* (1986), the Supreme Court maintained the limitations on non-gazetted police officers' ability to create associations following the implementation of the Police Forces (Restriction of Rights) Act, 1966, and the Rules as amended by Amendment Rules, 1970.

The Supreme Court ruled in *T.K. Rangarajan v. Government of Tamil Nadu* (2003) that workers do not have a fundamental right to go on strike. Additionally, the Tamil Nadu Government Servants' Conduct Rules, 1973, forbid striking.

## REFERENCE

1. <https://corridalegal.com/legality-of-the-right-to-strike-in-india/>
2. [https://www.indiacode.nic.in/bitstream/123456789/17112/1/the\\_industrial\\_disputes\\_act.pdf](https://www.indiacode.nic.in/bitstream/123456789/17112/1/the_industrial_disputes_act.pdf)
3. <https://share.google/7rTTdbfXYpmHwMeeL>
4. <https://share.google/zUb1lwO44KtPTdwo6>