CHAPTER-VIII

CONCLUDING OBSERVATIONS

Introduction

The industrial sector plays an important and vital role in Bangladesh in terms of volume of employment, production, capital investment and its share in the revenue. The industry has witnessed a significant growth in the recent past specially during the last three decades. This has also given rise to some industrial unrest/disputes which are a matter of serious concern, especially at this critical time when the industrial progress in this country is tardy, resources are limited, the pressure of population is increasing and the industrial progress is the prime need. It is, therefore, very important to identify the operational effectiveness of industrial disputes' settlement machineries in settling of industrial dispute and restoring industrial peace.

Summary of Findings

1. A review of the development of labour laws and industrial relations policy depicts that there have been a number of changes in the labour laws since

British period. The changes in the labour laws were mostly the results of the labour policies declared from time to time. Uptill now the government of Bangladesh ratified thirty one ILO conventions, a majority of which are directly related to the development of industrial relations system. The ingredients of the labour relations policy in Bangladesh include right to association, collective bargaining, tripartism, right to strike and workers' participation.

2. An analysis of the disputes in Bangladesh reveals that the number of disputes in this country is alarming. During 1972-94, there have been on an average about 42 industrial disputes per year involving around 85,125 workers and resulting a loss of more than 39,7319 man-days. The production and wages losses due to these dispute is also appealing. The dispute data in the country did not indicate any linear trend. From 1973 to 1975, 1980 to 1983 and from 1985 to 1994 it witnessed a decreasing trend and in the rest of the years there was increasing trend. No correlation exists between the figures relating to the number of disputes, workers involved and man-days lost owing to these disputes.

3. Financial issues like wages, bonuses, dearness allowances, gratuity, provident fund, etc. causing about 46% of all disputes with 24% of workers involved and 33% of man-days lost in such disputes during the decade 1980-1991, seem to be the major facet to industrial disputes in Bangladesh. Political matters seem to be the second one which involved 45% of all the disputes occurred during 1980-91.

4. It can be commented that though the number of disputes in this country is not very high but, the number of workers involved and the resultant man-days lost indicate that these disputes continue to be great impediments in industrial development of the country if appropriate measures are not taken to their timely settlement.

5. Other factors remaining the same, bipartite negotiation, whatever may be its form-informal discussion or grievance procedures or participation committee or collective bargaining and tripartite negotiation (conciliation) presupposes a congenial working relationship between the parties concerned, which is very much lacking in Bangladesh.

6. The workers and management of the industries come from completely different social background and hold quite opposite views against each other.This differences highly restrict the effective operations of collective bargaining to amicable settlement of industrial disputes.

7. The multiplicity of unions at the plant and federation level, and consequent rivalry between them acts as a serious bottleneck in the way of sensible negotiations both at collective bargaining and conciliation levels. Under a situation of frequent political changes and acts of military Governments, different union/federation become influencial under the patronage of the party controlling the Government.

8. Due to workers' allegiance to different unions, they are sometimes unwilling to abide by the agreements which were already made by some other opponent union/federation. Deadlocks arise over the determination of CBA and management finds it difficult as to whom to consult and to negotiate with.

9. Under the present system of management of public sector industries, most of policy making powers rest with the cocerned ministry. The plants as operational units have very limited authority. Inter-hierarchical authorities and responsibilities have not been clearly spelt-out. Under such a situation, plant managers do not take any risk and responsibility and frequently refer problems to higher authority. So, the disputes settlement through collective bargaining and conciliation at plant level of public enterprises is very difficult.

10. An average conciliator has been found to be otherwise qualified, fairly aged and experienced , but lacking relevant educational and job backgrounds and devoid of adequate status and prestige. Moreover, his neutrality is not out of questions. His workload is very light, particularly at the branch and regional levels. His offices suffers from certain acute physical and administrative problems.

11. Compared to collective bargaining and labour courts, the conciliators could reasonably adhere to time fixed by law in disposing of the disputes referred to them. But their success in signed agreements show a decreasing trend.

12. The reasons for failing conciliation have been found to be similar to those responsible for failing collective bargaining.

13. On failing conciliation, although the law emphasises resolution of disputes through arbitration, a considerable reluctance on the part of all concerned toward this machinery has been observed. Due to the absence of referred cases to the arbitration the working of this machinery in Bangladesh is completely absent.

14. Non-availability of suitable arbitrators is a main factor affecting the working of arbitration because the Government does not prepare any panel of arbitrators. As arbitration awards is final and such is binding on both the parties and the failure to implement such award is made punishable, parties generally avoid arbitration.

15. The disputes dealt in by the labour courts are generally of an individual nature. The courts do not follow any formal procedure in selecting the cases for hearing. As regards the effectiveness of the adjudication system, the success score of labour courts shows downward tendency.

16. There is a wide variation of success score of the respective labour courts. Some of the courts could handle more than 300 cases in a year, but this level of success could not be achieved by all the courts. Some of the reasons behind influencing the operations of the adjudication machinery include non-attendance of the members of the courts representing both employers' and workers sides, physical limitation of handling cases by the chairmen of the courts and attitude of the concerned parties towards timely disposal of the cases.

17. Although the law emphasises ensuring industrial justice through quick settlement of the cases referred to them, the labour courts have been found to be very negligent in making procedural summarisation in hearing and deciding the cases.

18. Lack of seriousness on the part of the courts' chairmen who are usually retired or about to retire senior members of the judicial service necessarily spending their whole life in the traditional civil and session courts.

19. As against a statutory allowed period of two months for giving decision on a case by a labour court, the average time taken for deciding cases is found to be 20 months. From the findings regarding labour courts operation, it seems that the labour courts have largely failed in achieving the purposes for which they were constituted.

20. The number of cases in the Labour Appellate Tribunal showed declining tendency. On the average only 55 cases were filed in a year with the Tribunal.But the effectiveness of the Labour Appellate Tribunal has been found to be satisfactory as compared to that of labour court.

Suggestions and Policy Implication

In view of the above findings, the following suggestions emerge:

1. Wages, bonuses and other financial facilities continue to be the major considerations in industrial dispute. Unless these basic causes are removed, no amount of other improvements will help in establishing harmonious relations between labour and management. To reduce the magnitude of labour unrest there is the immediate necessity of reviewing wage-level keeping in view the cost of living of workers and take necessary measures for a rational wages policy. There should be an overall wage policy and as a matter of policy the cost of living of workers should be linked with the rise in prices and wages should be revised from time to time taking into consideration the local condition and capacity of the industry to pay.

2. Before any direct or assisted negotiation could be effective, the parties must agree to some sort of "psychological contract" over certain desirable norms and codes of behaviour on the part of both sides (employee and employer). A phased comprehensive training programme may have a significant role to play in this context.

3. A strong, stable and well-organised trade unions is a necessary precondition for a successful collective bargaining process. Proper union leadership will strengthen the union-management relationship. In order to reduce the dominance of outsiders, legislative measures are also necessary.

4. An immediate step is due to be taken to determine the CBA for each industry. Only those workers would be eligible to vote, who are members of the union. The union or federation securing the maximum number of votes should be

declared as the CBA. From section 22(9)(e) of the IRO the word "one-third" may be replaced by words "simple majority". This will help to improve collective bargaining negotiations as well as conciliation.

5. To control illegal and unreasonable demands placed by the unions, workers should be kept well informed about the enterprise policies. Statutory provision is essential for disclosure of information about enterprise which will make workers and their union more logical to collective bargaining about wage and other monetary facilities.

6. To increase effectiveness of conciliation process, and for commanding respect, expert, well-qualified and experienced conciliators should be engaged into the service by providing good service conditions and pay.

7. Training programmes on industrial relations/labour administration should be extended to the conciliator, workers, and management.

8. The powers conferred upon the conciliators under the Act are inadequate. He has no power to enforce the attendance of any person and examine him on oath. This had affected the effective working of conciliation machinery. In view of this it is suggested that the conciliation officers should be empowered under the Act to compel the attendance of any person.

10. In order to encourage voluntary arbitration, some changes in the existing law may be necessary. Under the present form, cases referred to arbitration depend on parties' willingness and the awards of arbitration is final. This provision naturally discourages the parties to resort to arbitration.

11. According to the statutory provision, conciliators only hold the right to

pursued the parties to reference dispute to arbitration, but he has no power to compel parties to reference disputes to arbitration. So, legal provision is essential to giving power to the conciliators to compel parties to refer dispute to arbitration after conciliation effort had failed

12. To overcome scarcity of suitable arbitrators, Government should prepare an up-to-date arbitrators' panel with efficient and distinguished personalities which can popularise arbitration machinery in the country.

13. To make labour courts more effective, Chairpersons of labour courts require to have special interests combined with specialised skill and aptitude. Thus, the option of the incumbent chairperson may be sought from amongst the panel of judges before giving appointment to such courts. The practice of appointing retired persons on deputation should be discouraged. The persons may be appointed on a permanent basis.

14. The number of labour court with adequate facilities need also be increased to deal with the increasing number of cases filed in existing labour courts. The Government should pay proper attention to the adjudication system and consider labour courts just like civil court. Violation of the labour courts decision should be made a more serious offence by amending the present penalty limits.