

MGT 202

Labour Law

THE BANGLADESH LABOUR ACT, 2006

(XLII OF 2006)

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CHAPTER XIV SETTLEMENT OF DISPUTES, LABOUR COURT,
LABOUR APPELLATE TRIBUNAL, LEGAL PROCEEDINGS, ETC.

209. Raising of industrial disputes : No industrial dispute shall be deemed to exist, unless it has been raised in accordance with this chapter by a collective bargaining agent or an employer.

Mediation

In Bangladesh, mediation appears in the labour law as the first, informal, and voluntary attempt to settle an industrial dispute. It usually involves:

- ✓ Direct negotiation between the employer and the workers or their union.
- ✓ A voluntary effort where both parties try to reach a mutually acceptable solution.
- ✓ Mediation often takes place before the formal machinery of the Labour Act is triggered. Its tone is collaborative and problem-solving, like two sides trying to adjust the sails before the winds grow rough.

Conciliation

Conciliation is a more structured process, governed by the Bangladesh Labour Act, 2006 (amended).

Key features:

- ✓ Conducted by a Conciliator, typically an officer from the Department of Labour (DoL).
- ✓ The Conciliator acts as a neutral facilitator.
- ✓ The goal is to bring the disputing parties to an agreement and prevent a strike, lockout, or prolonged conflict.
- ✓ Conciliation must follow the steps outlined in the Act, with specific time limits for completing the process.
- ✓ Think of conciliation as a guided negotiation, where a neutral official helps both sides untangle the knots before the rope snaps.

Arbitration

If conciliation fails, the parties may choose to refer the dispute to arbitration under mutual agreement.

Key features:

- ✓ Arbitrator may be a government officer or any mutually agreed person.
- ✓ Arbitration is voluntary, but once submitted, the decision (award) is binding on both parties.
- ✓ The award must be delivered within the time prescribed by the Labour Act.
- ✓ Arbitration serves as an alternative to a full-fledged labour court case.



Method	Nature	Who Conducts It	Binding?	When Used
Mediation	Informal, voluntary negotiation	Employer & workers/union	No	Early stage; before formal dispute machinery
Conciliation	Formal dispute resolution under the <u>Labour Act</u>	Conciliator (<u>DoL</u>)	No (but agreement reached becomes binding)	After written notice of dispute
Arbitration	Formal and structured; alternative to court	Arbitrator chosen by both sides	Yes	When conciliation fails and parties agree



210. Settlement of industrial disputes : (1) If, at any time an employer or a collective bargaining agent finds that an industrial dispute is likely to arise between the employer and workers or any of the workers, the employer, or, as the case may be, the collective bargaining agent shall communicate his or its views in writing to the other party.

(2) Within fifteen days of the receipt of a communication under sub-section (1), the party receiving it shall, in consultation with the representatives of the other party, arrange a meeting for collective bargaining on the issue raised in the communication with a view to reaching an agreement thereon, and such meeting may be held with the representatives of the parties authorized in this behalf.

(3) If the parties reach a settlement on the issues discussed, a memorandum of settlement shall be recorded in writing and signed by both the parties and a copy thereof shall be forwarded by the employer to the Government, the Director of Labour and the Conciliator.

(4) If-

(a) the party receiving a communication under sub-section (1) fails to arrange a meeting with the representatives of the other party for collective bargaining within the time specified in sub-section (2), the other party, or

(b) no settlement is reached through dialogue within a period of one month from the date of the first meeting for negotiation, or, such further period as may be agreed upon in writing by the parties, any of the parties, may, within fifteen days from the expiry of the period mentioned in sub-section (2) or clause (b) of this sub-section, as the case may be, report the matter to the conciliator and request him in writing to conciliate in the dispute and the conciliator shall, within ten days of receipt of such request, proceed to conciliate in the dispute.

(5) The Government shall, for the purposes of this chapter, by notification in the official Gazette, appoint such number of persons as it considers necessary, as conciliator for such specific area or any industrial establishment or industry, and the conciliator shall take up the conciliation to whom the request shall be made for conciliation under sub-section (4),

(5) The Government shall, for the purposes of this chapter, by notification in the official Gazette, appoint such number of persons as it considers necessary, as conciliator for such specific area or any industrial establishment or industry, and the conciliator shall take up the conciliation to whom the request shall be made for conciliation under sub-section (4),

(6) The conciliator, upon receipt of the request as aforesaid, shall start conciliation and shall call a meeting of the parties to the dispute for the purpose of bringing about a settlement.

(7) The parties to the dispute shall appear before the conciliator in person or shall be represented before him by person nominated by them and authorized to negotiate and enter into an agreement binding on the parties.

(8) If any settlement of the dispute is arrived at in the course of the proceedings before him, the conciliator shall send a report thereof to the Government together with a memorandum of settlement signed by the parties to the dispute.

(9) If no settlement is arrived at within the period of thirty days of receipt of request under sub-section (4) by the conciliator, the conciliation proceedings shall fail or the conciliation may be continued for such further period as may be agreed upon in writing by the parties.

(10) If the conciliation proceeding fails, the conciliator shall try to persuade the parties to agree to refer the dispute to an Arbitrator.

(11) If the parties do not agree to refer the dispute to an Arbitrator, the conciliator shall, within three days of failure of the conciliation proceedings, issue a certificate to the parties to the dispute to the effect that such proceedings have failed.

(12) If the parties agree to refer the dispute to an arbitrator, they shall make a joint request in writing for reference of the dispute to an arbitrator agreed upon by them.

(13) The arbitrator, to whom a dispute is referred under sub-section (12), may be a person borne on a panel to be maintained by the Government or any other person agreed upon by the parties.

(14) The Arbitrator shall give award within a period of thirty days from the date on which the dispute is referred to him or such further period as may be agreed upon in writing by the parties to the dispute.

(15) After he has made an award, the arbitrator shall forward a copy thereof to the parties and to the Government.

(16) The award of the arbitrator shall be final and no appeal shall lie against it.

(17) An award shall be valid for a period not exceeding two years as may be fixed by the arbitrator.

(18) The Director of Labour may, if he deems fit in the interest of settlement of a dispute, at any time, take over any conciliation proceedings pending before any conciliator and proceed to conciliate in the dispute himself or transfer such proceedings to any other conciliator, and the provisions of the preceding subsections shall apply to such proceedings.

(19) Notwithstanding anything contained in this section, collective bargaining agent in the establishments in respect of which trade union of employers or federation of trade unions of employers have been registered shall communicate with such trade union or federation regarding any industrial dispute and a settlement between them shall be binding upon all the employers and workers of those establishments.

214. Labour courts :

- (1) For the purposes of this Act, the Government shall, by notification in the official Gazette, establish as many labour courts as it considers necessary.
- (2) Where more than one labour court is established under sub-section (1), the Government shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction under this act.
- (3) A labour court shall consist of a chairman and two members to advise him, but in case of trial of any offence or in disposal of any matter under chapter X and XII it shall be constituted with the chairman only.
- (4) The chairman of the labour court shall be appointed by the Government from amongst the District judges or an additional district judges.

(5) The terms and conditions of appointment of the chairman of the labour court shall be determined by the Government.

(6) One of the two members of the labour court shall be the representative of employers and the other shall be the representatives of the workers and they shall be appointed in the manner hereinafter provided in sub-section (9).

(7) The Government shall constitute, in the manner prescribed by rules, by notification in the official Gazette, two panels, one of which shall consist of six representatives of employers and the other of six representatives of the workers.

(8) The panel of members prepared under sub-section 99) shall be reconstituted after every two years, notwithstanding the expiry of the said period of two years, The members shall continue on the panels till the new panels are constituted and notified in the official Gazette.

(9) The chairman of the labour court shall, for hearing or disposal of a case relating to a specific industrial dispute, select one person from each of the two panels constituted under sub-section (7), and persons so selected, together with the chairman, shall be deemed to have constituted the labour court in respect of that specific industrial dispute:

provided that the chairman may select any member from either of the panels as a member of the labour court in respect of more than one such case pending before the labour court.

217. Appeal from judgments etc. of labour courts : Subject to this act, any party aggrieved by an award, decision, sentence or judgment given or passed by a labour court may prefer an appeal to the labour Appellate tribunal within sixty days of the delivery there of and the decision of the Tribunal in such appeal shall be final.

218. Labour appellate tribunal : (1) For the purpose of this act there shall be a labour appellate tribunal which shall consist of a chairman, and if the government so deems fit, such number of other members as the government may appoint from time to time.

(2) The chairman and the members, if any, of the tribunal shall be appointed by the government by notification in the official gazette on such. terms and conditions as the Government may determine.

(3) The chairman of the tribunal shall be a person who is or was a judge or an additional judge of the supreme court, and a member of the tribunal shall be a person who is or was a judge or an additional judge of the supreme court or who is or was a District judge for not less than three years.

(4) If the chairman is absent or unable to discharge his functions for any reason, the senior member of the tribunal, if any, shall perform the functions of the chairman.

230. Representation of parties : (1) A worker who is a party to an industrial dispute shall be entitled to be represented in any proceedings under this chapter by an officer of a collective bargaining agent and, subject to the provisions of sub-section (2) and (3), any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceeding by a person duly authorized by him.

(2) No party to an industrial dispute may be represented by a legal practitioner in any conciliation proceedings under this chapter.

(3) A party to an industrial dispute may be represented by a legal practitioner in any proceeding before the labour court or before an arbitrator, with the permission of the court or the arbitrator, as the case may be.