



Essential Defence Services Bill, 2021

Why in News

Recently, the government introduced the **Essential Defence Services Bill, 2021** in Lok Sabha.

- It seeks to **replace the ordinance issued in June 2021** and **prohibits any agitation and strike** by anyone engaged in the **essential defence services**.

Key Points

▪ Essential Defence Services:

- It includes any service in any **establishment or undertaking dealing with production of goods or equipment required for defence** related purposes or any **establishment of the armed forces** or connected with them or defence.
 - It also includes services that, **if ceased, would affect the safety of the establishment engaged in such services** or its employees.
- In addition, the **government may declare any service as an essential defence service** if its cessation would affect the:
 - Production of defence equipment or goods.
 - Operation or maintenance of industrial establishments or units engaged in such production.
 - Repair or maintenance of products connected with defence.

▪ Defined Strikes:

- It is defined as **cessation of work by a body of persons acting together**, which includes:
 - **Mass casual leave.**
 - **Coordinated refusal** of any number of persons to continue to work or accept employment.
 - **Refusal to work overtime**, where such work is necessary for maintenance of essential defence services.
 - Any other conduct which results in, or is likely to result in, **disruption of work in essential defence services.**

▪ Prohibition on strikes, lock-outs, and lay-offs:

- Government **may prohibit strikes, lock-outs, and lay-offs in units engaged in essential defence services.**
- It may issue such an order if necessary in the interest of **sovereignty and integrity** of India, **security** of any state, **public order, public, decency and morality.**

▪ Punishment:

- **Illegal Lock-Outs and Lay-Offs:**

- Employers violating the prohibition order through illegal lock-outs or lay-offs will be punished with up to **one year imprisonment or Rs 10,000 fine, or both.**
- **Strikes:**
 - **Persons commencing or participating in illegal strikes** - Up to **one year** imprisonment or **Rs 10,000 fine**, or both.
 - **Persons instigating, inciting, or taking actions to continue illegal strikes, or knowingly supplying money** for such purposes- Up to two years imprisonment or Rs 15,000 fine, or both.
 - Such an employee will be liable to **disciplinary action** including dismissal as per the terms and conditions of his service.
 - In such cases, the **concerned authority is allowed to dismiss or remove the employee without any inquiry**, if it is not reasonably practicable to hold such inquiry.
- All offences punishable will be **cognisable and non-bailable.**
 - **Cognisable** offences are those that require an immediate arrest.
- **Public Utility Service:**
 - It will amend the **Industrial Disputes Act, 1947** to include essential defence services under **public utility services.**
 - The undertakings which supply the **basic necessary services** such as electricity, water, gas, power, transport etc. comes under the purview of the public utility services.

Right to Strikes

- Right to strike is recognized globally. **Article 19(1)** the Constitution of India guarantees the protection of certain freedoms as fundamental rights such as:
 - Freedom of **speech and expression.**
 - **Assemble peaceably** and without arms.
 - Form **associations or unions.**
 - **Move freely** throughout the territory of India.
 - **Reside and settle** in any part of the territory of India.
 - **Practise any profession**, or to carry on any occupation, trade or business.
- However, **strike is not expressly recognized in the Constitution of India.** The **Supreme Court** settled the case of **Kameshwar Prasad v. The State of Bihar 1958** by stating that **strike is not a fundamental right.** Government employees have no legal or moral rights to go on strikes.
- India recognized strike as a **statutory right under the Industrial Disputes Act, 1947.**

Industrial Disputes Act 1947

- It defines public utility service and strike, it also puts certain prohibitions on the right to strike. It provides that **no person employed in public utility service shall go on strike in breach of contract:**
 - **Without** giving the employer **notice of strike** within six weeks before striking.
 - Within **fourteen days of giving such notice.**
 - **Before the expiry of the date** of strike specified in any such notice as aforesaid.
 - During the **pendency of any conciliation proceedings** before a conciliation officer and seven days after the conclusion of such proceedings.
- It is to be noted that **these provisions do not prohibit the workmen** from going on strike but **require them to fulfill the condition before going on strike.** Further these provisions apply to a **public utility service only.**

Source: IE

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