
EMPLOYMENT DISPUTE RESOLUTION: CONTEMPORARY TRENDS AND CHALLENGES

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1. Introduction

The relationships in employment are a key pillar of the economical growth and social stability in any given modern society. The relationship between the employees and employers is not just contractual but it roots deep in the issue on the power relations, rights, responsibilities, and expectations. With the ever-evolving environment of workplaces due to globalisation, digitalisation, and transformation of structures of the labour market, employment has become more complicated. This intricacy, however, has seen a parallel increase in disagreements as a result of employment relations.¹

Employment conflicts today are much more than the examples of wages and working conditions. They cover a broad spectrum of issues such as wrongful termination, discrimination in the workplace, sexual harassment, unfair methods of labour, breach of contractual terms and the gig and platform-based employment issues. The multiplication of the employment models, including the contractual work, distance work, and informal work, has also made it even more difficult to resolve such conflicts, in many cases obscuring the borders of the rights and duties of the employer and the employee.

In India, a formal legal framework has historically mediated employment disputes, with most occurring under laws like the industrial disputes, 1947 law and occasionally, as of late, the Labour codes. These frameworks give the option of adjudicating using labour courts, industrial tribunals and other quasi-judicial. Although these mechanisms are crucial in making sure that there is legal accountability and protection of workers rights, they have been criticized as time-consuming, procedure-bound, resource-intensive. Not only does delay in adjudication deny the parties the right to justice, but also heightens tensions between the parties, which in many

¹ S.C. Srivastava, *Industrial Relations and Labour Laws* 12 (Vikas Publishing House, New Delhi, 6th edn., 2012).

instances result in irredeemable rupture of employment relationships.²

Further, the adversarial approach of conventional litigation is more likely to represent the issue as a win-lose scenario, where continuity, cooperation, and trust as the desired hallmarks of employment relations may not be enhanced. Lack of resources, awareness, and bargaining power is also a disadvantage to the employees, especially those in any vulnerable or unorganized sector, who are at a disadvantage in the formal legal process as well.

It is against this backdrop that Alternative Dispute Resolution (ADR) mechanisms have come up as an important and dynamic technique of settling employment disputes. ADR is inclusive of processes including mediation, conciliation, and negotiation, which focus more on dialogue, mutual understanding, and a consensual settlement, as opposed to an adversarial confrontation. These mechanisms are less formal and flexible hence are usually faster than the traditional process of courts. They also come with leveraging the benefit of confidentiality that is very crucial in matters pertaining to employment that may include sensitive questions like intimidation or a question of character.³

Conciliation plays a unique center-stage in employment dispute resolution in the Indian legal system, which is statutorily supported by the labour laws. The role of conciliation officers in settlement of disputes, before they are carried to formal adjudication, between employers and employees is relevant. During the pre-litigation stage and outside a court, as well as within a court, mediation, though not yet institutionalized in labour law to the same extent as conciliation, is becoming more and more popular as a pre-litigation and court-referred dispute resolution system. As the least formal mode of resolving disputes, negotiation remains one of the most and still practiced at the workplace level, especially in the case of collective bargaining.

Although ADR appeared to hold certain benefits, its application in employment conflict context poses a number of questions. The issues of voluntary involvement, the impartiality of the results in the case of uneven bargaining power, and the enforceability of settlements are questioned. Also, it has the shortage of awareness and institutional infrastructure to underpin the effective implementation of ADR mechanisms, and especially in the informal sector where

² P.L. Malik, *Industrial Law* 45 (Eastern Book Company, Lucknow, 10th edn., 2015).

³ O.P. Malhotra and Indu Malhotra, *The Law and Practice of Arbitration and Conciliation* 78 (LexisNexis, New Delhi, 3rd edn., 2014).

a big segment of Indian labour force is found.⁴

It is in this context that the current research aims at critically discussing how ADR mechanisms can and indeed have been effective in the resolution of the employment dispute cases in India. It answers this question by trying to look at how mediation, conciliation, and negotiation can help overcome the shortcomings of the conventional litigation system and offer a more effective and fair system of conflict resolution. This paper also examines the legal, institutional and practical issues surrounding ADR within the employment context and the comparative practices of other jurisdictions to determine the best practices.

Finally, this study tries to make a contribution to the current discussion about the labour law reform by evaluating the possibility of using ADR as a sustainable and inclusive method of employment dispute resolution. It is hoped that through pointing out the current loopholes and offering specific remedies to the current problems, the study will help improve the efficiency of the dispute resolution systems and facilitate the state of industrial harmony, fairness, and justice in employment relationship.

2. Statement of Research Problem

Although ADR mechanisms are available in the Indian labour laws, employment disputes are still mostly addressed in formal litigation, making them come with long delays and high costs. Effective implementation, creation of awareness and institutional support of ADR processes in employment issues is lacking.

The issue is to understand whether the mechanisms of the ADR are really efficient to resolve the employment-related conflicts and what legal and practical obstacles prevent their popularization in India.

3. Review of Literature

Employment dispute resolution and, specifically, the use of Alternative Dispute Resolution (ADR) channels, has become the central topic in the Indian and other legal literature regarding employment dispute resolution. The role of labour legislations, dispute settlement bodies, and

⁴ Surya Narayan Mishra, *An Introduction to Labour and Industrial Law* 89 (Central Law Agency, Allahabad, 2019).

new ADR models in solving workplace conflicts have been analysed by different authors.

S.C. Srivastava thoroughly analyzes industrial relations and also points out the significance of conciliation and adjudication in accordance with the Industrial Disputes Act, 1947. He also points out that conciliation is an important preparation mechanism in dispute resolution, but he says that this process is usually spoiled by the inefficiencies in the procedures and inability to enforce settlement agreements.⁵

Equally, P.L. Malik talks about the development of labour jurisprudence in India, and the increasing complexity of employment arbitration in response to the shifting economic factors. What his work highlights, is the shortcomings of the old forms of adjudication, especially the time delays and bureaucratic nature of the labour courts and tribunals.⁶

In their sub-authoritative book on arbitration and conciliation, O.P. Malhotra and Indu Malhotra expound the conceptual underpinnings of ADR and how it can be applied to many areas including employment disputes. They stress that ADR mechanisms and in particular conciliation have a legal foundation in India and have the potential to decongest the courts. Yet, they also observe that ADR processes are not effectively used at all because of institutional and practical limitations.⁷

Avtar Singh also looks at the legal framework under which arbitration and conciliation operate and also points out the strengths of ADR, including flexibility, confidentiality and cost-effectiveness. To him, ADR mechanisms are especially appropriate in conflict situations that seek to maintain relationships, like conflicts in the employment. However, he notes that arbitration might not be always suitable when they have an unequal bargaining power between the parties.⁸

Further, S.N. Mishra dwells on labour and industrial laws in India and highlights the involvement of conciliation officers in the process of resolving a dispute. This, he observes, is because though conciliation may be a pre-requisite in most industrial disputes; its effectiveness, however, depends greatly on the ability and impartiality of the conciliator, and the goodwill

⁵ S.C. Srivastava, *Industrial Relations and Labour Laws* 215 (Vikas Publishing House, New Delhi, 6th edn., 2012).

⁶ P.L. Malik, *Industrial Law* 78 (Eastern Book Company, Lucknow, 10th edn., 2015).

⁷ O.P. Malhotra and Indu Malhotra, *The Law and Practice of Arbitration and Conciliation* 132 (LexisNexis, New Delhi, 3rd edn., 2014).

⁸ · Avtar Singh, *Law of Arbitration and Conciliation* 64 (Eastern Book Company, Lucknow, 11th edn., 2013).

and cooperation of parties.⁹

In a bigger sense, Surya Narayan Mishra writes about how the system of labour laws must restructure with changing employment models, such as informal and gig economies. He points out that more open and flexible dispute resolution process, including mediation and negotiation should be created to solve the new issues experienced at the workplace.¹⁰

The discourse is also enhanced by global viewpoints. This can be seen through research conducted on the Advisory, conciliation and arbitration Service in the United Kingdom (ACAS) that indicates how institutional mediation and conciliation mechanisms can facilitate quicker and easier employment dispute settlements. These comparisons may indicate that well-organized ADR systems, backed by effective institutional settings, could diminish litigation to a large scale, and encourage industrial concord.¹¹

Although there is a large body of literature on labour law and ADR, there is a gaping hole in analysing whether ADR mechanisms are practical and efficient in Indian employment dispute situations. The available literature contains a lot of doctrine or description, but very little empirical study of the practical mechanism of ADR in the employed environment. Moreover, no power disparity between employers and employees as well as ignorance, and institutional support have not been adequately tackled.

This paper thus attempts to fill this gap through a critical examination of the applicability and usefulness of ADR mechanisms in resolving employment disputes in India, as well as making some comparative analysis to propose some serious reforms.

4. Study Objectives.

1. To investigate the kinds and nature of employment conflicts.
2. To examine how mediation, conciliation and negotiation can be applied to resolve a dispute.

⁹ S.N. Mishra, *Labour and Industrial Laws* 254 (Central Law Publications, Allahabad, 28th edn., 2018).

¹⁰ Surya Narayan Misra, *An Introduction to Labour and Industrial Law* 110 (Central Law Agency, Allahabad, 2019).

¹¹ International Labour Organization, *Labour Dispute Resolution Systems: Guidelines for Improved Performance* 45 (ILO, Geneva, 2013).

3. To examine the legal provisions of employment dispute resolution in India.
4. To assess the effectiveness of ADR mechanisms.
5. To outline problems and recommend reforms.

5. Research Questions

1. What is the efficiency of ADR solutions in employment disputes in India?
2. What are the shortcomings of the old litigation in employment disputes?
3. Is it possible for mediation and conciliation to deliver fair results between employers and employees?
4. What are the changes that can be put in place to enhance employment dispute resolution?

6. Research Methodology

The current research takes a doctrinal and analytical research methodology to understand the role and efficacy of Alternative Dispute Resolution (ADR) mechanisms in dispute resolution in employment disputes in India. This study is qualitative in approach and it is based on systematic explanation of the legal principles, statutory provisions and judicial interpretations of employment disputes. It is based on the voluminous application of primary sources in the form of major legislations like the Industrial Disputes Act, 1947, the Arbitration and Conciliation Act, 1996, and relevant stipulations under the new Labour Codes as well as on the significant judicial rulings made by the Supreme Court and other High Courts. Moreover, to form a comprehensive perspective on the topic, the research utilizes secondary literature on the topic, namely standard textbooks on labour law and ADR, peer-reviewed journal articles, commentaries, Law Commission reports, and publications of international organizations such as the International Labour Organization (ILO).

The main methodology will involve the use of the library type of research in which the material

used will be carefully chosen, reviewed and analyzed in order to get the accuracy, credibility and academic relevance. The paper adopts a descriptive research method based on profiling the current legal principles that regulate the resolution of employment disputes, and subsequently a critical research method that is used to examine the efficiency, accessibility and equity of ADR practices, including mediation, conciliation and negotiation techniques. Besides, a comparative approach has been addressed to discuss dispute resolution practices in certain jurisdictions, specifically the United Kingdom and the United States in an attempt of identifying the best practices globally that can be translated to fit within the Indian context.

The area of the study is limited to employment disputes under the formal law system, it makes specific references to ADR mechanisms in lieu of conventional litigation. Although the study is an effort to take a thorough legal and conceptual analysis, it lacks an empirical or field based research or interview / survey research, which is in itself a limitation in understanding how ADR mechanisms operate in the grassroots level. Also, the research might not be comprehensive enough to offer the dynamics of dispute resolution within the informal and unorganized sectors where a large number of population is involved in the workforce. Notwithstanding these shortcomings, the research approach used is adequate to the attainment of the study goals by giving a systematic, analytical and comparative insight on employment dispute resolution using ADR mechanisms.

7. Discussion / Analysis

1. Effectiveness of ADR Mechanisms in Employment Disputes

The mechanism of Alternative Dispute Resolution (ADR) by incorporating mediation, conciliation and negotiation has become well recognized in circumstances to resolve employment disputes in an efficient and contextually sensitive manner. Unlike the traditional lawsuits approach where a litigated case is usually characterized by formalities, strict rules of evidence and long delays, ADR has offered a more relaxed and informal structure that enables a dispute to be resolved on time. This diligence is especially imperative in the field of employment conflict where any delays during the process could destabilize incomes on one side, and escalate the continuity of operations at the other. ADR helps to cut costs of long-term disputes by simplifying procedures and the length of resolving a dispute.¹²

¹² O.P. Malhotra and Indu Malhotra, *The Law and Practice of Arbitration and Conciliation* 95 (LexisNexis, New

The other major strength of ADR is the problem-solving and interest based nature, which is inherently different to the nature of court proceedings, which are rights-based and adversarial. Rather than simply targeting the legal rights and obligations, ADR processes motivate parties to find the real interests and concerns and priorities, which allows more comprehensive and win-win solutions to be delivered. The method is particularly useful in employment conflicts where a legal claim may not always limit issues into workplace relations, breakdown of communication and organizational culture. Consequently, ADR is not only solving the immediate conflict, but may also prevent future conflicts, as it can solve underlying problems.¹³

Another important benefit that contributes to the success of the ADR in employment conflict is confidentiality. In contrast to the court proceedings, which are typically covered, ADR activities take place privately, thus safeguarding sensitive data and keeping the employer reputation as well as that of employees intact. This is especially relevant in situations where there are claims of harassment, discrimination, or misconduct, and the exposure of this may result in enduring professional and personal impacts. The confidentiality of ADR also supports a free discussion and open-minded involvement which may result in more authentic and long lasting settlements.

Also, ADR mechanisms encourage party autonomy and participatory justice which will enable the parties to oversee the way the outcome of the dispute is formed. This participatory aspect tends to produce increased levels of satisfaction and compliance since the solutions reached are not dictated by an outside power but agreed on by both parties. Such consensual results are more prone to retain trust and collaboration between the two parties in employment contexts whereby continued relationships or future interactions can be in place.¹⁴

Irrespective of such difficulties, ADR is still a very effective method of settling employment disputes with the needed help of proper protection, an institutional base, and consciousness among parties. Due to its timely, cost effective, confidential as well as relationship oriented results, it is a welcome addition to traditional litigation and at least in most instances is a better provision than the standard litigation process in the changing employment law environment.

Delhi, 3rd edn., 2014).

¹³ Avtar Singh, *Law of Arbitration and Conciliation* 72 (Eastern Book Company, Lucknow, 11th edn., 2013).

¹⁴ S.C. Srivastava, *Industrial Relations and Labour Laws* 220 (Vikas Publishing House, New Delhi, 6th edn., 2012).

2. Shortcomings of Conventional Litigation and ADR requirement.

The traditional approach to employment dispute resolution via labour courts and industrial tribunals has historically been the main mechanism within the Indian labour law, but is now gradually facing a backlash due to its structural and procedural constraints. The lengthiness of the litigation process is one of the most notable disadvantages since the cases may languish years in courts as a result of judiciary backlog and delays. These delays are injurious to the cause of dispute resolution, especially in employment cases of which the prompt remedy is the vital element of the economic life of the employee, and the economic efficiency of the employer.¹⁵

Besides delays, the rigidity of procedural form and the complexity of technical that is the hallmark of traditional litigation make it esoteric and an anathema to workers who do not possess legal expertise or are financially disadvantaged. The distance of official court proceedings, the strict evidentiary rules, and utilization of legal representation frequently leave the employees, especially those employed in a vulnerable- or unorganized industry at a disadvantage.

The other important deficiency is the adversarial character of litigation that introduces disputes on a win-lose parsimony. This kind of style will only aggravate a situation, create animosity and destroy the employer employee relationship that cannot be mended. This adversarial result is usually backsets in employment situations, where career advance or spread of reputation might be at stake.¹⁶

Conversely, ADR mechanisms are more collaborative, flexible and confrontational to dispute resolution. Focusing on the dialogue, mutual understanding, and consensual settlement, ADR helps parties to come to solutions that are not only legally but also practically viable. This explores the increasing imperative to incorporate ADR into the traditional dispute resolution system as not an alternative but a complement mechanism that can both liberate the judicial system and foster a harmonious human relationship in the work place.

¹⁵ Avtar Singh, *Law of Arbitration and Conciliation* 80 (Eastern Book Company, Lucknow, 11th edn., 2013).

¹⁶ P.L. Malik, *Industrial Law* 102 (Eastern Book Company, Lucknow, 10th edn., 2015).

3. Problems in the application of ADR in Employment.

However, even though Alternative Dispute Resolution (ADR) has a lot of benefits, there are a number of challenges, which discourage its use in employment disputes in India. The most serious is the power imbalance between employers and employees which may deter the fairness and voluntariness of ADR results. Employers who are usually better endowed financially, have more expertise in law and bargaining power can impose undue influence during negotiations or conciliation so the settlements made may not fully secure the interests of the employees.¹⁷

The unawareness and inaccessibility of ADR mechanisms, especially to workers in the unorganized and informal sectors is another significant challenge. A significant portion of the labour force has no knowledge on their rights and existence of alternative dispute resolution measures and as such, ADRs are not fully exploited. This poor awareness can be further amplified by the low level of legal literacy and the lack of institutional outreach programs that are designed to inform the stakeholders.

Another major factor which contributes to the ineffectiveness of ADR is the institutional constraints. The trained and qualified mediators and conciliators are often in short supply and in most of the instances the officials available are not trained to perform advanced training on employment disputes. Also, poor infrastructure, non-standard operating processes and monitoring systems diminish the effectiveness and believability of ADR procedures.¹⁸

In addition, the questions of settlement enforcement and interference by the courts are also likely to make parties unwilling to resort to ADR tools. Although ADR is supposed to offer more fast and final solutions, there is a risk that doubts about the implementation undermine trust in the system.

These issues demonstrate that even though ADR has a significant potential to be an efficient employment dispute resolution mechanism, its effectiveness depends on its ability to mitigate structural inequalities, enhance institutional capacity, and sensitize more stakeholders. Unless such reforms are implemented, ADR is doomed to under-usage notwithstanding intrinsic

¹⁷ Surya Narayan Misra, *An Introduction to Labour and Industrial Law* 130 (Central Law Agency, Allahabad, 2019).

¹⁸ S.C. Srivastava, *Industrial Relations and Labour Laws* 245 (Vikas Publishing House, New Delhi, 6th edn., 2012).

benefits within its framework.

8. Case Laws / Case Analysis.

In the case of *Bharat Bank Ltd. v. Employees of Bharat Bank Ltd.*, AIR 1950 SC 188, an important development in the context of resolving employment disputes in India was achieved. It was caught by an industrial dispute between the bank and employees over the terms and conditions of services which was taken to industrial tribunal. The Supreme Court judged that the industrial tribunals are quasi-judicial organizations and have court-like duties and that their rulings are ceasing and have the authority to enforce. It was based on this verdict that institutional adjudication of labour disputes in India was established. Concurrently, it tacitly evidences the increase in the burdens on such tribunals, thus substantiating the existence of alternative institutions such as mediation and conciliation to provide faster and efficient adjustment of disputes.¹⁹

The Supreme Court in the case of *Workmen of Dimakuchi Tea Estate v. Management of Dimakuchi Tea Estate*, AIR 1958 SC 353 dealt with interpretation of this term, workman, as provided under the Industrial Disputes Act, 1947. The case revolved around whether an industrial dispute could be raised by a person, who was not directly employed by the management. The Court took a narrow meaning and asserted that only persons with direct employment relationship should be included in definition of a workman. This ruling plays a vital role in the access to formal dispute resolution options. It however also reveals the inadequacy of traditional labour law to deal with non-traditional or indirect workers in their disputes, which further supports the need to consider more flexible ADR schemes capable of dealing with shifts in employment relations.²⁰

In *Salem Advocate Bar Association v. Union of India*, (2005) 6 SCC 344, the landmark court ruling can be credited with an important role in promoting Alternative Dispute Resolution in India. This case discussed the constitutionality of a change made to the Code of Civil Procedure that introduced Section 89s mediation, conciliation and arbitration provisions. The Supreme Court upheld such provisions and highlighted the fact that ADR has a great role to play in clearing the backlog of judicial proceedings and enhance expeditious justice. The Court further invited the courts to actively refer disputes to ADR mechanisms where suitable. This inference

¹⁹ *Bharat Bank Ltd. v. Employees of Bharat Bank Ltd.*, AIR 1950 SC 188.

²⁰ *Workmen of Dimakuchi Tea Estate v. Management of Dimakuchi Tea Estate*, AIR 1958 SC 353.

is especially applicable to the employment dispute resolution since it supports the validity and neediness of ADR as a beneficial alternative to litigation.²¹

The Supreme Court further shed more light on how Section 89 of the Code of Civil Procedure would be applied in ADR in *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24. The Court divided the issues by their appropriateness to ADR, and highlighted that mediation and conciliation will be particularly suitable when it is necessary to maintain relations between the parties. Even though the case was basically a commercial dispute, it can be applied to employment disputes as well, the principles do apply in this scenario as well, where preserving employer-employee relationships is often a good thing. The ruling, therefore, fortifies the argument in embracing ADR mechanisms when resolving workplace disputes.²²

In the case *ONGC Ltd. v. Western Geco International Ltd.*, (2014) 9 SCC 263, the Supreme Court discussed the limits of judicial review over arbitral awards based on the doctrine of the public policy. The Court made the interpretation of a public policy broader, covering the principle of reasonableness and fairness, letting the arbitral decisions have even more scrutiny by a court. Although this decision is made to bring about justice and avoid arbitrary results, it poses the challenge of excess judicial encroachment of the ADR proceedings. Against the employment dispute resolution, this case raises the conflict between fairness and autonomy and efficiency of the ADR mechanisms.²³

9. Findings

Through this analysis, I have been able to assert although, through these mechanisms; that is, Alternative Dispute Resolution (ADR) mechanisms, which includes; Mediation, conciliation and negotiation, have come up as a viable and progressive substitute to conventional litigation when addressing the issue of employment dispute resolution within the Indian context. Among the most prominent findings is that ADR processes are relatively quicker, less formal and less expensive as compared to adjudication in labour court and industrial tribunal courts. The benefits render ADR particularly applicable in employment disputes where the process might be lengthy and cause an employer to experience financial burden, emotional and undermine

²¹ *Salem Advocate Bar Association v. Union of India*, (2005) 6 SCC 344.

²² *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24.

²³ *ONGC Ltd. v. Western Geco International Ltd.*, (2014) 9 SCC 263.

the employer-employee relationship. ADR offers a high degree of flexibility and confidentiality, another element that makes it very effective especially in sensitive cases that relate to workplace harassment, discrimination and reputation issues.

Of all other mechanisms of ADR, conciliation takes a central stage in an Indian labour law context and is common as a pre-adjudicatory mechanism. That the use of conciliation has been given statutory acknowledgment under labour laws illustrates its significance in ensuring the peaceful resolution of conflicts. The study however reveals that the efficacy of conciliation is never constant and often relies on several factors which include the ability of the conciliation officer, his impartiality, style, in addition to the desire of the parties to negotiate in good faith. Certainly, in most cases, conciliation proceedings turn into a formal obligation, instead of an attempt to settle controversies, which constrains their practical value.

Finally, although ADR mechanisms promise much in ameliorating employment dispute resolution in India through their promise of efficiency, flexibility and cost-saving, it is only under the condition that they overcome structural problems like power imbalances, lack of awareness and poor implementation in institutionalisation. These areas need to be reinforced so that the ADR not only remains an alternative option but also becomes a preferred and suitable tool when it comes to settling employment conflicts.

10. Recommendations / Suggestions

Considering the results, there are a number of reforms that can be implemented to enhance the performance of the employment dispute resolution systems in India especially by incorporating Alternative Dispute Resolution (ADR) procedures. Among the resolutions that should be suggested is the implementation of compulsory pre-litigation mediation when faced with an employment dispute particularly when it is a matter of termination, workplace harassment and dispute over wages. This would not only foster early settlement but also lessen the workload on courts and tribunals and would also achieve a more collaborative working method on dispute settlement.

Moreover, enabling the roles of conciliation officers is extremely needed as it is one of the essential links in the process of resolving the issues based on labour laws. This may be done by special training, capacity-building events and setting out of clear guidelines that will be covered in order to excel in terms of neutrality, efficiency and accountability in conciliation

proceedings. Enhanced credibility of conciliation as a primary tool of dispute resolution would be bolstered by establishing institutional support and monitoring mechanisms.

Another important reform that can bring the employment dispute resolution up to date is the promotion of Online Dispute Resolution (ODR). Through technology, ODR is able to offer an easy, time-saving, and affordable way to resolve a dispute, especially to workers in distant locales or those working in a gig and platforms. Digital tools can also be integrated to provide superior documentation, transparency and tracking of a dispute resolution process.

All these recommendations are intended to establish a more effective, accessible and balanced employment dispute resolution system whereby ADR mechanisms can be a viable and preferred alternative to conventional litigation.

11. Conclusion

India wherever there is a crossroad that needs to be taken by employment dispute resolution; the changes in dynamics occurring in the workplace, the growing complexity of labour relations and rising demand of efficient and available justice mechanisms. Although the traditional litigation via the labour courts, and industrial tribunal still enjoys a prevalent role in dispute resolution, it is increasingly becoming apparent that the traditional means fail to suit the demands of the current employment relationship. Adversarial proceedings, large costs and procedural delays not only provide a barrier to timely justice, but also causes a strain to the employer-employee relationship making reconciliation in the long run a challenge.

It is in this regard that, in this aspect, ADR mechanisms, especially mediation, conciliation and negotiation, presents a bright and a forward looking alternative. These mechanisms put more emphasis on flexibility, confidentiality and mutual cooperation and hence it is more applicable in the resolution of employment dispute situations when it is necessary to save on relationships and achieve results in time. The increased availability of conciliation as a statutory procedure and the increased acceptance of mediation are indicative of a slow change to more collaborative dispute resolution mechanisms in the Indian legal system.

Nevertheless, according to the study, the potential of ADR in employment dispute resolution is mostly unexploited as a result of a number of structural and practical challenges. Some challenges that have persisted to restrain the effectiveness of ADR processes include power

imbalance between an employer and an employee, non-awareness, institutional infrastructure, and uncontrolled implementation. Unless these issues are dealt with, ADR will simply be minimized as an auxiliary process and not a revolution in justice.

Conclusively, ADR can restructure the employment dispute resolution in India because it offers a system that is efficient, cost effective, besides being fair and relationship-oriented. Through resolving the disparity between law and practice and through the introduction of a culture of dialogue and cooperation, ADR may help to lessen the burden of litigation even as it facilitates industrial peace or workplace fairness and improves sustainable labour relations.

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