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## UNIT 11 DISCIPLINE, SUSPENSION, RETRENCHMENT AND DISMISSAL

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### 11.0 OBJECTIVES

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Once you have read this Unit, you should be able to:

- define the concept of discipline,
- identify the various dimensions of discipline,
- identify the factors leading to indiscipline,
- identify the various forms of developing, implementing and maintaining positive discipline,
- appreciate the underlying concepts behind suspension, dismissal and retrenchment,
- handle the processes involved in suspension, dismissal and retrenchment, and
- evolve policies for these actions in the context of your organisation.

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### 11.1 INTRODUCTION

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Employee discipline is the backbone of any successful organisation. In fact, the function of management is to keep an enterprise going on smoothly, efficiently and profitably. To do this, you need a workforce that has to accept certain reasonable standards of behaviour at the workplace. Effective employee performance depends on the willingness on the part of the subordinates to carry out the instructions and orders of their superiors and to abide by the rules and norms of the organisation. The purpose of this Unit is to discuss and examine what discipline is, what the various aspects of employee discipline are, and how positive discipline can be achieved from your subordinates.

This Unit also familiarises you with the nature of three job changes, which are sometimes a part of disciplinary actions, that is **suspension**, **dismissal** and **retrenchment** which an employee may experience in course of employment.

Since these changes have the effect of reducing income or loss of job and livelihood, and one of these changes (dismissal) carries such a stigma which may even disqualify the person concerned for further employment, they are not only likely to be resented but also challenged in courts. Sometimes, changes have to be effected by the management to maintain discipline or to

rationalise the working of the organisation. These should be managed and carried out in such a manner that the hardship involved may be minimised, and they should not have any demotivating effect on other employees. This could be possible only when such changes are not only essential and fair, but they are made to look to be so.

Again, since the enactment of industrial law the right of management to hire and fire has been abridged considerably, the employee has acquired the right to question and challenge his or her suspension, dismissal and retrenchment. The Labour Courts, High Courts and Supreme Court are vested with the powers to annul or modify such actions of the employer and the latter has now to exercise these rights in a bona fide manner, or for a just cause. In fact a big case law has already been built up on these changes. It is, therefore, essential for you as a manager or supervisor, to know how such actions should be taken if they have to be taken, with the minimal effect on the working of the organisation and employee-management relations.

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## 11.2 WHAT IS DISCIPLINE?

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The first thing most people associate with the concept of discipline is the act of punishment. This is so because discipline, in its narrowest sense, is used to refer to the act of imposing penalties for “wrong” behaviour. However, it is important to remember that this negative expression is only a part of the meaning of the word discipline. **Discipline means orderliness, obedience and maintenance of proper subordination among employees and a check or restraint on the liberty of individual.** It is a training that corrects, moulds and strengthens the individual behaviour. Discipline can also be stated as the **management action to enforce the organisation’s standards and norms among all the employees.** It is also a **force, which prompts an individual or group to follow self-discipline i.e. to observe certain rules, regulations and procedures that are considered to be necessary for the attainment of an objective, as a result of training and practice.**

Discipline implies a state of order in an organisation. It means proper appreciation of the hierarchical superior-subordinate relationship. It is, in other words, adherence to established norms and regulations. It corrects improper conduct and thus acts as a force leading to the observance of rules and regulations. It is, you may say, essentially an attitude of the mind, a product of culture and environment. Therefore, discipline cannot be maintained merely with the help of legislative sanctions; it requires persuasion on a moral plane.

The concept of discipline emerges from the interaction of the seniors with the subordinates. And these interactions with the subordinates are governed by various formal and informal rules and regulations. The company’s manual or standing orders provide the formal rules and regulations, including work-related behaviour rules. But these formal rules are not sufficient to cover the wide range of interaction that the seniors and the subordinates are engaged in the complex context of organisational relations. A large part of the behaviour and interaction with the subordinates is governed by informal and unwritten rules and norms. These informal rules and norms that support and legitimise practice are based on convention and culture of the organisation.

Let us now distinguish three major aspects of discipline:

### i) Negative Discipline

Negative discipline involves force or an outward influence. It is the traditional aspect of discipline and is identified with ensuring that subordinates adhere strictly to rules, and punishment is meted out in the event of disobedience or indiscipline. In this perspective strict penalties are levied for the violation of rules. It is, in fact, the fear of punishment that works as a deterrent in the mind of the subordinate. Approaching discipline from this kind of a perspective has been proving increasingly ineffective for various reasons.

## ii) Positive Discipline

In this type of discipline subordinates comply with the rules not from fear of punishment, but from the desire to cooperate in achieving the common goal of the organisation. In positive discipline willingness to comply is most important. The emphasis here is on cooperative efforts to secure compliance to organisational norms. It promotes emotional satisfaction instead of emotional conflict, and the increased cooperation and coordination reduces the need for formal authority. This approach to discipline helps achieve both individual needs of the subordinates and the organisational goals. It would, therefore, motivate the subordinates to work with zeal and fulfil their needs. Positive discipline, in other words, calls for internalisation by your subordinates of the objectives and expected norms of behaviour in your organisation. The positive concept of discipline assumes a certain degree of self-discipline.

## iii) Discipline as Self-control

Discipline at one level means training that corrects, moulds, strengthens, or perfects the behaviour. Discipline, in this sense, refers to the training and development of an individual, i.e., one's efforts at self-control for the purpose of adjusting oneself to certain needs and demands. This is nothing but what you would call self-discipline. It is extremely important to have this kind of self-discipline both in the seniors and in the subordinates for effectively and efficiently achieving the organisational objectives. Here again the emphasis is on establishing and ensuring a minimum degree of orderliness. This orderliness is obtained in the modern work context by increasing the degree and extent of compliance by subordinates.

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## 11.3 INDISCIPLINE

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Indiscipline refers to the absence of discipline. Indiscipline, therefore, means non-conformity to formal and informal rules and regulations. We cannot afford indiscipline as it will affect the morale, involvement and motivation of subordinates in the organisation. Indiscipline often leads to chaos, confusion, and reduces the efficiency of the organisation.

### 11.3.1 Factors Leading to Indiscipline

Various socio-economic and cultural factors play a role in creating indiscipline in an organisation. We wonder if you realise the fact that often indiscipline may arise because of poor management on the manager's part. Insensitive and thoughtless words and deeds from a manager are potent reasons for subordinates to resort to acts of indiscipline. Defective communication by the superiors and ineffective leadership devoid of tactful human relations approach can cause indiscipline among subordinates. Indiscipline by the subordinate may be an outcome of the manager's non-response to his or her grievance also.

The subordinates may indulge in acts of indiscipline because of unfair practices, like the wage differentials, unreasonable declaration of payment of bonus or non-payment, wrong work assignments, defective grievance handling etc. The payment of low wages is perhaps another reason for indiscipline. When the employee is paid low wages and in addition more and more work is demanded he or she becomes dissatisfied, dishonest and insubordinate. Poverty, frustration and indebtedness, generally overshadow the mind and thought which move more towards destruction than constructive discipline.

Low payment of wages also creates lack of motivation in the employees. After all, each individual needs response, security, recognition and new experience. An employee agrees to give a certain amount of work and loyalty, and expects at the same time, in return, an adequate economic reward, security, fair human treatment and other kinds of support. If he or she does not get as expected, then gradually the employee begins to express his or her dissatisfaction and

grievance by way of absenting oneself, coming late to the office, inefficiency and insubordination.

Defective communication between the manager/supervisor and the subordinate also leads to conflict of various kinds. Very often the subordinates get no opportunity to express their feelings and sentiments. Unless a humane and understanding approach is adopted there is more likelihood that the subordinate may take recourse to indiscipline.

So we can say that counselling (see Unit 10) is very much required to understand the root cause of indiscipline, and to find a solution for it.

### 11.3.2 Forms of Indiscipline

Absenteeism, insubordination, violation of rules, gambling, incompetence, damage to machine and property, dishonesty and other forms of disloyalty lead to industrial indiscipline. These are all forms of misconduct against the management. If an act of an employee is prejudicial or likely to be prejudicial to the interests of the employer or to the employer's reputation, it is a misconduct. The act of an employee can become a misconduct in the following cases:

- a) where the act of employee is inconsistent with the peaceful discharge of his or her duty towards the employer;
- b) where the act of the employee makes it unsafe for the employer to retain him or her in service;
- c) where the act of the employee is so grossly immoral that all reasonable persons would not trust the employee;
- d) where the conduct of the employee is such as to open before him or her ways for not discharging the assigned duties properly;
- e) where the conduct of the employee is such that the employer cannot rely on his or her loyalty/faithfulness;
- f) where the conduct of the employee is insulting and insubordinate to such a degree as to be uncomfortable with the continuance of a superior-subordinate relationship;
- g) where the employee is abusive or disturbs the peace at the place of his or her employment; and
- h) where the employee is habitually negligent in respect of the duties for which he or she is engaged.

It is very difficult to lay down exhaustively as to what would constitute misconduct and indiscipline. It would depend upon the examination of facts. Some of the acts of misconduct are mentioned in the Model Standing Orders as a part of the rules made under the Industrial Employment (Standing Orders) Act of 1946. Non-performance of duty is a serious misconduct, because it is basically inconsistent with the obligations of employment. Under the act of negligence, an employee fails to give full care and attention on account of which the work becomes defective, and production suffers both in quantity and quality. It is a misconduct to cause disorder on the premises, intimidate, threaten or assault other employees and use abusive language. Preventing the entry and exit of willing employees and movement of goods to and from the factory, obstructing the work being carried on, damaging the property of the employer, indulging in mischief or other objectionable activities, occupying the employer's premises or property, go-slow, etc. are forms of misconduct.

Insubordination, assault or threat to superior officers, defamation, making false complaint, are all acts of indiscipline. Non-performance of work during working office hours, tampering with

official records, misappropriation of accounts are acts of indiscipline which are considered to be of serious gravity.

## 11.4 DISCIPLINARY ACTION

For every misconduct and act of indiscipline, a manager will have to take disciplinary action against the concerned employee. However, there is no hard and fast rule to deal with indiscipline. The positive approach to discipline which we have discussed in an earlier Section calls for self-discipline. This approach assumes that most of the subordinates, if not all, generally behave reasonably following the given norms and procedures. To institute this kind of positive discipline among the subordinates the manager must ensure that:

- 1) Rules and regulations are reasonable, legitimate and clear.
- 2) Subordinates are involved in framing rules and regulations so that they willingly accept them.
- 3) Prior and clear notice is given of the consequences of breaking rules.
- 4) There is consistency and uniformity of punishment.
- 5) Human personality is treated with dignity.
- 6) He or she, as a manager, should set high standards.

The institution of self-discipline can be referred to as **PREVENTIVE DISCIPLINE** as the actions taken are prior to any indiscipline on the part of the employee(s). And it initiates self-discipline as a preventive measure to indiscipline. In addition to this other forms of the disciplinary actions are as following:

- 1) **Corrective Discipline:** In this case, the employee is let off with some sort of corrective disciplinary action in response to some indiscipline. The action can be a warning, suspension, etc. Usually the action is taken by the immediate supervisor but the authority is given by the higher level manager. The corrective action is a positive action initiated to encourage the employee discipline by reforming the indisciplined employee and also ensuing no further similar indiscipline from the co-worker. Thus, ensuing effective group standards.
- 2) **The Hot Stove Rule:** Its an extension of the corrective action. It means that the indisciplinatory action demands a reaction like a person receives in touching a hot stove. The corrective action should be very impersonal but immediate and stern with a consistency. But first warning is to be issued so that every employee is aware of the consequences. As the disciplinary action is immediate the employee(s), register the punishment and the offence. Moreover, the corrective action has to be consistent so that no feeling of discrimination is generated among the employees.
- 3) **Progressive Discipline:** Progressive discipline here refers to the fact that repeated offences will warrant severe/stronger punishments. This is to encourage the employees to implement self corrective actions so as to save themselves from any further penalties. This process allows the organisation a chance to work out the employee problem. The following process can briefly be summed up as Progressive Discipline System (**K. Davies 1981**) :
  - verbal reprimand by Supervisor,
  - written reprimand with a record in personnel file,
  - one to three day suspension from work,
  - suspension for one week or longer, and
  - discharge from work.

In addition, you can check indiscipline through counselling and educating your subordinates. Strategies like job enrichment to increase commitment among your subordinates, effective and efficient grievance handling procedures, opportunities for development of subordinate's potential are strategies that you may adopt to prevent indiscipline in your organisation.

In order to maintain the motivation and morale of your subordinates, it is necessary that you adopt a formal system of dealing with indiscipline. The formal system often calls for a judicious approach.

**Check Your Progress-1**

- 1) Explain the difference between the positive and negative concepts of discipline.  
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- 2) Identify the different forms of indiscipline and examine the factors leading to indiscipline.  
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- 3) What are the various forms of implementing Discipline?  
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**11.5 SUSPENSION**

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**Suspension** means prohibiting an employee from performing the duties assigned to him or her and withholding wages for so long as that prohibition continues. During the period of such prohibition the contract of employment between an employer and the employee is said to be under suspension, and the employee is said to have been suspended. In other words, suspension does not mean termination of service but only denial of work for some time, with or without pay, whatever the contract between the employee and employer permits.

**Procedural suspension** is not considered as a punishment. Such suspension is made when disciplinary action is initiated or is about to be initiated against a person for any misconduct which may warrant any major penalty like discharge or dismissal. The delinquent employee is suspended if his or her presence at work is not considered desirable for fear of any tampering with the records or any other evidence or the enquiry by itself. The employee is also suspended in the interest of discipline and good order in the establishment and in all cases where the act of misconduct complained of is grave and serious. It is usual to issue the suspension order along with the letter of charge, but if the management thinks it necessary, the employee may be suspended even before issuing the charge-sheet pending further disciplinary proceedings.

During the period of suspension the worker is paid a subsistence allowance equal to one-half of the gross wages for the first ninety days and three-fourths of the wages beyond ninety days. Till recently this subsistence allowance was being paid only in the Government and public sector establishments, but with the recent amendment of the rules it has been made obligatory for all employers to pay to the employee during his or her suspension, a subsistence allowance equal to one-half of the basic wage, dearness allowance and other compensatory allowances to which he or she would have been entitled if one had not been suspended. Such subsistence allowance is paid for ninety days. If the enquiry is prolonged beyond ninety days, the allowance is to be

increased to three-fourths of his or her normal emoluments. If, however, the responsibility of prolongation is that of the employee the allowance would be reduced to one-fourth of his or her normal emoluments.

Like fine and warning, suspension is generally considered as a minor punishment which may be inflicted for such misconduct as unpunctuality or irregular attendance provided they are not habitual or often repeated. As a rule, punishment should be commensurate with the gravity of the offence.

The power to suspend an employee and withhold payment of wages during the period of suspension by way of punishment, like the power to make penal deductions from the remuneration of employees, is not an implied term in ordinary contract between master and servant. As such unless power is reserved to the employer specifically in the contract of employment itself, an employee cannot be punitively suspended. Hence in establishments where standing orders have been framed governing the contract of employment between the management and the workman, provision is usually made for reserving powers in the management to punitively suspend the employee, as also prescribing maximum number of days of suspension which are generally four, for which such punishment may be inflicted. If the punitive suspension exceeds the number of days mentioned in the standing orders, it may be regarded as a major punishment, and may be dealt with as such.

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## 11.6 DISMISSAL

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**Dismissal** means termination of service or contract as a punishment for a serious misconduct or act of indiscipline. This is the supreme punishment which an employer can give for disciplining employees as a last resort. It carries a stigma which may prevent the dismissed person from getting another job. It is a permanent separation from job.

Dismissal and discharge have the same result, that is, termination of the service of the employee. It is on this account that these terms are often used indiscriminately by employers and employees in the Labour Courts as though they were inter-changeable. But there is a distinct difference between the two expressions, and it is desirable that this is clearly understood. The points that need to be noted in this connection are as follows:

- a) While dismissal is a punishment for some misconduct, discharge is not always a punishment.
- b) The act and omissions for which the punishment of discharge may be inflicted are generally the same for which the extreme punishment of dismissal would be warranted. However, on consideration of equity, expediency or extenuating circumstances, it may be deemed desirable by the employer to discharge an employee instead of dismissing him or her.
- c) Discharge is considered a less severe punishment than that of dismissal, although both result in the termination of service. The stigma that is attached to the expression 'dismissal' may make it practically impossible for the person concerned to obtain another employment, which is not the case with discharge.
- d) The agreed or reasonable notice may have to be given in case of discharge, but not so in case of dismissal which is usually summary, i.e., without notice.
- e) In case of dismissal, the employer can withhold the organisation's contribution to the provident fund, bonus and gratuity payable to the employee and also his or her other dues to make up the loss caused to the concern by his or her misconduct, but in the case of discharge the employee concerned would usually be entitled to these benefits and dues.
- f) For dismissing an employee the employer has to hold disciplinary proceedings. He or she may or may not do so for discharging an employee. The employer can discharge an employee by giving an agreed or reasonable notice, as provided in the standing orders or contract of

service, without serving him or her with a charge sheet, receiving explanation and holding an enquiry, as is usually done for dismissing an employee. However, the employer may be required to prove the bona fides of both the actions.

### **Grounds for Dismissals**

The grounds for dismissals can be:

- incapacity of the employee which prevents him or her from fulfilling the contract of service with the employer. The incapacity can be lack of skill, technique, aptitude or physical health.
- misconduct or various offences which are inconsistent or incompatible with the faithful discharge of one's duties. Willful insubordination, riotous and disorderly behaviour, dishonesty, habitual absence without leave, habitual negligence or willful neglect of work etc., would be justifiable grounds for dismissal.
- such immorality on the employee's part which may bring disrepute to the employer. These acts can be that of theft, fraud, dishonesty such as giving or taking bribe, habitual breach of law such as drunk driving by a company driver and so on.

All the above three grounds justify dismissal under common law, and to this may be added several other acts and omissions, such as willful slow down, or inciting others to slow down, assault on manager or supervisors, and other offences under the Indian Penal Code involving moral turpitude, taking into consideration the nature of the industry or the establishment. However, one has to follow a procedure in this regard.

No desirable procedure which may comply with principles of natural justice has been laid down in any law for dismissal or discharge of an employee, nor has it been the subject of any collective bargaining, or tripartite understanding. However, a model procedure which should be followed has been evolved. The procedure stipulates the following steps:

- i) Preliminary enquiry on receiving report of misconduct.
- ii) Issuing of charge-sheet if there is a prima facie case for misconduct and if there is some evidence for establishing the same and for obtaining explanation of the delinquent employee.
- iii) Holding fair and unbiased domestic enquiry, (if explanation of the employee is found unsatisfactory), in conformity with the principles of natural justice, giving full and real opportunity to delinquent employee to prove his or her innocence. The punishing authority is to consider the report and decide the punishment to be awarded if the employee is found guilty. In deciding the punishment it has to be seen that it is in proportion to the offence committed. The employer has also to see that the enquiry has been conducted properly before communicating the decision to the employee concerned. If at that time, the employee is a party to any pending dispute the punishing authority should take the approval of the concerned authority before whom the dispute is pending, before conveying the decision to the employee. Even if the decision is conveyed to the employee, before taking necessary permission, the employee may be informed that necessary permission is being obtained, and his or her dismissal will take effect from the date the permission is given. In the meanwhile he or she will be considered as suspended.

In India under Section 33 of the Industrial Disputes Act, 1947, if an employee is to be dismissed or discharged, and he or she is a party to a dispute which is pending before any conciliation or arbitration or adjudication authority, prior permission or approval of that authority has to be taken for passing any order of dismissal or discharge. If the employee concerned is not party to the dispute, he or she can be dismissed with one month notice or one month wages in lieu of the notice, and during that month, the employer has to apply for permission for dismissal to the



authority concerned. In case of “protected workmen”, prior permission for dismissal and discharge is essential even when they are not connected with the dispute. These protected workmen are union office-bearers who are declared as such, to save them from being victimised for raising or conducting the dispute. They are nominated by the unions, and their number is not to exceed one percent of the total workforce, subject to the minimum number of five.

## 11.7 RETRENCHMENT

**Retrenchment** is a termination of service for reasons of redundancy or surplus to requirement. Retrenchment does not include voluntary retirement, retirement and termination on the grounds of ill health. By a recent amendment, non-renewal of contract is not to be regarded as retrenchment. In other words, retrenchment is termination of service, but all terminations of service are not retrenchment. According to the ruling of the Supreme Court of India “retrenchment” as defined in the Act is not to be given any wider meaning than the ordinarily accepted connotation of the word and termination of service of a workman for any reason other than he was surplus would not constitute retrenchment.

Hence, retrenchment is termination of service for redundancy, or when workers become surplus to requirements either because of rationalisation, or due to loss of market for the product, or for use of some labour saving devices. Termination of services, on account of disciplinary action, or prolonged illness, or retirement and superannuation, expiry of contract, termination of contract as per the terms of the contract, unsatisfactory working during the probationary period as provided in the standing orders or service contract and non-renewal of contract, is not retrenchment.

Lay-off is not termination of service. It is only temporary denial of employment due to circumstances beyond the control of employer, such as power shortage, mechanical breakdown, non-availability of raw material, accumulation of stocks, shortage of coal, and natural calamity or any other connected reason.

**Table 1: Differences between Retrenchment and Lay-off**

Lay-off	Retrenchment
<p>i) Lay-off is the inability of the employer to provide employment to workmen due to circumstances beyond his control, such as shortage of coal, power, breakdown of machinery, natural calamity, etc. It is not a termination of service.</p> <p>ii) Compensation payable is half of the wages which would have been received by the laid-off worker, if he had not been laid-off. This is payable only by establishments employing 50 or more persons, and if their work is not seasonal or intermittent. It is not payable to workers who are not on the payroll of the company, or if they are not casual or badli or substitute workers.</p> <p>iii) Lay-off compensation can be claimed as a statutory right by the workman if he has completed one year of continuous service, or has worked for 240 days on the surface or 190 days underground in 12 calendar months.</p>	<p>i) Retrenchment is termination of service. It is termination for reasons other than disciplinary action retirement or superannuation, expiry and termination contract and prolonged illness.</p> <p>ii) Retrenchment compensation payable is 15 days wages for every completed year of service besides one month or three months notice or pay in lieu of notice. This is payable by all establishments covered by the Act irrespective of the number of persons employed, and to all workmen, with qualifying service, except apprentices.</p> <p>iii) Retrenchment compensation and notice for retrenchment are only pre-conditions for retrenchment and not a right which a retrenched worker can claim. If notice and compensation are not given, the worker will not be considered to have been retrenched. The qualifying conditions of one year continuous service will, of course, have to be fulfilled in order to receive compensation.</p>

Process of retrenchment is based on the law which states that no workman employed in any industry who has been in continuous service for not less than one year or who had worked for 240 days on the surface or 190 days underground in 12 calendar months under an employer shall be retrenched by that employer unless (a) the workman has been given one month notice in writing indicating the reason for retrenchment and the period of notice has expired, or the workman has been paid one month's wages in lieu of notice; (b) the workman has been paid, at the time of retrenchment, compensation equal to 15 days average pay for every completed year of service or any part thereof in excess of six months; (c) notice in the prescribed manner is served on the appropriate Government. No such notice may be required if the retrenchment is under an agreement which specifies date for the termination of service. The 240 and 190 days working period which qualifies a workman for receiving compensation includes days for which he was on leave with wages, or laid-off under an agreement or is permitted by Standing Orders, or absent due to temporary disablement caused by accident arising out of or in course of employment, and in case of a female employee the days on which she has been on maternity leave.

**Transfer and Closure:** The retrenchment compensation is also payable to workmen in case of transfer and closure of undertakings. In case of closure the employer has to give sixty days notice explaining the reason for closure to the employee as well as to the appropriate Government. In case of closures which are beyond the control of the employers or due to unavoidable circumstances, maximum compensation payable is limited to three months average pay. Financial difficulties, accumulation of undisposed stocks, expiry of lease and licence are not considered as unavoidable circumstances. Compensation is not payable for closure by the undertakings set up for the construction of the buildings, bridges, roads, canals, dams and other construction works if they are closed within two years from the date they are set up.

**Procedure for Retrenchment:** In case of workmen who are Indian nationals, the principle of 'first come last goes' has to be followed for retrenchment. The authorities can retrench any other employee after recording the reasons for the same. For this purpose, seniority is to be considered in relation to the same category of employees.

**Re-employment of Retrenched Persons:** Where any employee is retrenched, and the employer proposes to reemploy any persons, he or she shall give an opportunity to the retrenched employees who are citizens of India to offer themselves for re-employment and they shall have preference over other persons. For this, notice of vacancy has to be put up on the notice board and the retrenched persons have to be informed by registered post about this vacancy.

**Retrenchment in Establishments Employing more than 100 Persons:** A different law regulates retrenchment in these establishments. For retrenchment and closure, these establishments are required to give three months notice instead of one month and 60 days notice required to be given by smaller establishments. In case of closure, bigger establishments have to pay compensation as in case of retrenchment and the maximum limit of three months wages applicable to smaller establishments is no longer applicable to them. Still more important restriction on retrenchment by the bigger establishments is that they are required to apply to the Government for permission to effect retrenchment, and the latter will not be effective unless the permission is granted. For closure and lay-off also they have to seek permission. On receiving the application for permission, the Government gives opportunity to be heard to both the management and the employees and their organisations. Whatever may be the decision of the Government it will remain in force for one year. The parties are permitted to apply to the Government for reviewing their own decisions. The Government has to take decision within two months of receiving the application, and if the management does not hear anything from the Government, for two months, the permission will be considered to have been granted. The main objective is to prevent the employers from retrenching employees either light-heartedly or for invalid reasons. Sufficient data is not available to confirm whether this objective has been achieved.

**Check Your Progress-2**

- 1) Distinguish between
  - i) procedural and punitive suspension;
  - ii) dismissal and discharge; and
  - iii) retrenchment and lay-off.

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- 2) Discuss the relevant provisions of the existing Industrial laws, which restrict the right of employers to dismiss or retrench their workers in India.

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**11.8 LET US SUM UP**

In this Unit we have examined the various aspects of discipline. We have seen that discipline is by and large a result of the culture and the pattern of authority/power that are available in an organisation. You as a manager will have to create conditions that will encourage positive discipline among your subordinates.

This Unit also discussed suspension, dismissal and retrenchment, the three potential causes of industrial unrest and conflicts affecting management not only in India, but the world over. These three terms have not only been defined formally, but also distinguished from one another, and also from such terms as discharge and lay-off, which can equally disturb industrial peace. Just and fair management of all these disturbing job changes can minimise if not totally eliminate their impact on employer and employee relations. How the right of management to discipline their workers, to hire and fire them or close down their undertakings or to retrench their workers has been abridged by the above two laws has also been explained. Procedure for dismissal, principles of natural justice, and practices in a few other countries have been discussed. Justification for restricting the right of employers to retrench their employees have also been discussed.

**11.9 KEY WORDS**

- Closure** : Closure means the closing of any place or part of a place of employment or the total or partial suspension of a work or total or partial refusal by an employer to continue to employ persons already in employment whether such closing, suspension or refusal is or is not in consequence of any industrial dispute.
- Discharge** : Termination of a contract of employment. It is not a punishment but may turn out to be a punishment in certain circumstances although the order of discharge may be couched in innocuous language.
- Dismissal** : Termination from employment for any of the misconducts enumerated in the Schedule to the Industrial Employment (Standing Orders) Act, 1946.

**Lay-off** : Lay-off means the failure, refusal or inability of an employer on account of shortage of coal, power, or raw materials or the accumulation of stocks or the breakdown of machinery or for any other reason to give employment to a workman whose name is borne on the muster-rolls of his industrial establishment and who has not been retrenched.

**Lock-out** : Temporary closure of business.

**Retirement** : Termination of service on reaching the age of superannuation.

**Retrenchment** : Retrenchment means the termination by the employer of service of a workman for any reason whatsoever, otherwise than as a punishment, but does not include voluntary retirement, retirement or termination for reasons of ill-health.

**Suspension** : Prohibiting an employee from performing the duties assigned to him, and withholding wages for so long as such prohibition continues.

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## **11.10 CLUES TO ANSWERS**

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### **Check Your Progress-1**

- 1) Compare your answer with the contents of Sec.11.2.
- 2) See Sub.-sec. 11.3.2.
- 3) See Sec. 11.4.

### **Check Your Progress-2**

- 1) Read the relevant Secs.11.5, 11.6 and 11.7.
- 2) See Sec.11.7.