



COLLECTIVE BARGAINING AND ITS FACTORS WHICH INFLUENCE SUCCESS COLLECTIVE BARGAINING

Dr. Sushma Tiwari

Faculty, Department of MBA (HRD), A.P.S. University, Madhya Pradesh.

Abstract

Collective bargaining refers to the process of negotiations between employers and workers with the aim of reaching an agreement regarding working conditions. In collective bargaining, employees are usually represented by a labour union. The term was first used in 1891 by Beatrice Webb, and has been recognized as a basic human right.

This research on the collective bargaining process as initiated by trade unions and the results of such efforts had been undertaken on the premise that trade unions are founded on the principle of strength in numbers, and organized to fight for the worker's rights, get better terms and conditions of work, and improve the overall quality of life and political power of its members, primarily through collective bargaining with employers. The collective bargaining process is also a complicated encounter because of the varying strategies and tactics used by both parties in the pre-negotiation and actual negotiation stages.

The study also reveals process and such factors influence the success of collective bargaining & these factors identified by both union and management.

Lastly, both management and union have the same perception on the factors that will contribute to the success of the collective bargaining process foremost of which is trust between parties.

Key Words: Negotiation, Trade Union, Collective Bargaining, Collective Action.

Introduction

The trade union, as a form of organization among workers, evolved in different parts of the world, in widely differing conditions and for varying reasons. Its historical formation from the early 1800s can be traced to economic, political, and social theories. As cited by Flippo (1984), trade unions are formed by the workers **“to promote, protect, and improve, through collective action, the social, economic, and political interests of its members.”** Corrollarily, Hoxie (1986) argued that labor unions' primary aim is to protect and pursue the economic interests (such as raise wages, shorten hours of work, and increase the security of employment) of its own members. The Constitution and By-laws of one of the most active national trade unions in the Philippines, which is called the National Union of Workers in the Hotel, Restaurant and Allied Industries, stipulates that its four main objectives are to: (1) unite and organize all workers into one union; (2) promote job security and defend workers' rights to self- organization, collective bargaining, and concerted action; (3) secure better terms and conditions of work; and (4) promote and advance the interests and general welfare of workers. These objectives are very similar to those cited in the economic, political and social theories on the formation of unions. Even the Philippine Labour Code (1998) defines a labour organization as **“any union or association of employees which exists in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment.”**

Collective Bargaining in India

Collective bargaining has been defined by the Supreme Court (“SC”) as “the technique by which dispute as to conditions of employment is resolved amicably by agreement rather than coercion”.¹⁰ It is a process of discussion and negotiation between employer and workers regarding terms of employment and working conditions. Workers are generally represented by trade unions with respect to expressing their grievance concerning service conditions and wages before the employer and the management. Refusing to bargain collectively in good faith with the employer is considered to be an unfair labour practice as per the provisions of the Industrial Disputes Act, 1947 (“IDA”). This is generally an effective system as it usually results in employers undertaking actions to resolve the issues of the workers. However, the legal procedure for pursuing collective bargaining in India is complicated.

Process of Collective Bargaining

The whole process of collective bargaining takes place mainly in two stages

- a. Negotiations
- b. Implementation

The following steps are involved in the collective bargaining process,

1. Identification of the Problem

The nature of the problem influences the whole process of collective bargaining. As such it is important for both the parties to



be clear about the problem before entering into negotiations. The nature of problem influences the selection of representatives, their number, period of negotiations and period of agreement that is reached ultimately.

2. Preparation for Negotiation

Negotiations may commence at the instance of either party-labour or management. Both employers and employees devote a great deal of time to the preparations for negotiation. The necessary data has to be collected on a number of issues. The personnel department sets the objectives which are proposed to be achieved through negotiation and which have to be necessarily related to anticipate trade union demands.

Before the negotiations commence, the approval of the top management must be obtained on:

- a. The specific proposals of the company, including the objectives of the negotiation.
- b. The appraisal of the cost of implementing the proposals if they are accepted by the two parties.
- c. The approval in principle of the demands of the trade union over which bargaining has to be made; the demands which are acceptable to the company and the demands which cannot be accepted by it.

3. Negotiation Procedure

In the first stage, representatives for the negotiation are to be selected. Such persons should be selected who can carry out negotiations with patience, composure and who can present their views effectively.

After selection, they should be educated about the problem and its pros and cons. Their powers and authority during negotiations should be decided. Other preparations include fixing up time for negotiations, period of negotiations etc.

Usually there will be a chief negotiator who is from the management side. He directs and presides over the negotiations. The chief negotiator presents the problem, its intensity and nature and views of both the parties. Then he allows the representatives of both the parties to present their views. Representatives from both the sides should reach the negotiation table with positive frame of mind.

They should be attentive to the other party's problems. They should try to find out what the other party is arguing for.

Then they should try to think about what counter arguments they can present and how to say 'no' effectively while the other party is presenting its views. By understanding and weighing the problems of the other party, sometimes a better solution may be reached which is more acceptable to both the parties.

The collective bargaining generally culminates into an agreement which is known as a labour contract, union contract or a labour-management contract, which is the end process of collective bargaining and is a statement of the terms and conditions of service which has been arrived at between the two parties.

The agreement should be printed and circulated among all the employees so that they know exactly what has been agreed upon between the management and their representatives. Then both parties should sign the agreement which in turn, becomes a binding contract for both the parties; the terms of which must be sincerely observed by them.

4. Implementation of Contract

According to Prof. Williamson and Harris, "If anything is more important to industrial relations than the contract itself, it is the administration of the contract. The progress in collective bargaining is not measured by the mere signing of an agreement. Rather it is measured by the fundamental human relationships agreement. The negotiation of the contract may have suspense drama of a sort which draws public attention. This is the spectacular side of collective bargaining. The unspectacular and more lasting and important side in the day in and day out process which keeps labour and management from the public disputes stage." The agreement can be made on a temporary basis. In such case, before the expiry of agreement both parties consult each other and can terminate or renew the agreement depending upon the circumstances. This may again lead to negotiations. As such, collective bargaining is not a temporary accommodation, but is a continuous process.

Factors Influences the Success of Collective Bargaining

The success of collective bargaining machinery largely depends on the respective attitudes of workers, in general, and the union, in particular on one hand and the attitude of management of employer on the other.



However, if collective bargaining is to exist in a country successfully the following factors are essential:

1. It is necessary for the **management** to recognize the union and to bargain in more good faith. This also puts pressure on the union to formulate plans and demands in a systematic manner.
2. There should be a change in the attitude of employers and employees. They must realize that collective bargaining approach does not imply litigation as it does under adjudication. Both the parties should keep this in mind that they have to resolve their differences on their respective claims quietly and calmly, with their own resources, reducing their dependence on the third-party intervention.
3. For the purpose of collective bargaining, employers should be represented by the management and workers by their union representatives. Careful thought and selection of the negotiating team is very much essential. For management team, it is better to have a mixed composition, such as production, finance, industrial relation experts and headed by a personnel expert.
4. It is also appreciable to have open minds; each party should listen to others' concern and point of views and should have some flexibility in making adjustments to the demands.
5. To ensure collective bargaining, unfair labour practices should be avoided and abandoned by both; otherwise, atmosphere and confidence will be vitiated by malpractice if either side takes advantage of the other by resorting to unfair practices.
6. Either side should avoid putting any irrational or unreasonable demand.
7. Negotiations can be successful only when the parties rely on facts and figures to support their points of view. That is why trade union should be assisted by specialists, viz., economists, productivity experts, etc.
8. Trade union should encourage the internal union democracy and periodic consultation with the general rank and file of the union members.
9. The terms of contract and the results of the negotiation should be in writing and should be embodied in a document. If no agreement is reached the parties should proceed to conciliation, mediation or arbitration.
10. If no settlement is arrived, then the workers should be free to go in for strike and the employers for lockout. However, utmost care should be taken to resolve difference mutually.
11. Strikes and lockouts should be the last resort. Periodic discussions may be necessary between management and unions to interpret the provisions of the contract and clarify doubts.
12. Trade unions should be equally concerned with quality of work that leads up to a consistent concern for the viability of the firm and its products and services.
13. Once the agreement is reached, it must be honored and fairly implemented.

Conclusion

Collective bargaining is concerned with the relations between trade unions (representatives of workers) and the management (representatives of employers). Bargaining is collective because chosen representatives of labour and management act as bargaining agents both parties sit at the bargaining table where they deliberate, persuade, try to influence, argue and haggle. Eventually they reach at an agreement which they record in the form of labour management contract.

It is imperative that an effective collective bargaining negotiation process be established in order that meaningful results/outcomes, which are truly relevant and beneficial to both parties, could be mutually agreed upon. Therefore, there are a number of factors that should be present in the collective bargaining process to ensure its success.

References

1. Divina M. Edralin, Ph.D. De La Salle University, Philippines
2. Flippo, E. (1984). *Personnel Management*, (6th ed.). New York: McGraw-Hill Book Co. Hoxie, R. (1986). The economic program of trade unions. (Reprinted in *Trade Unions*, ed.). W.E.J. McMarthy. pp 35-46.
3. International Labor Organization (1982). *Wages: A worker's education manual*. Geneva: International labor Organization.