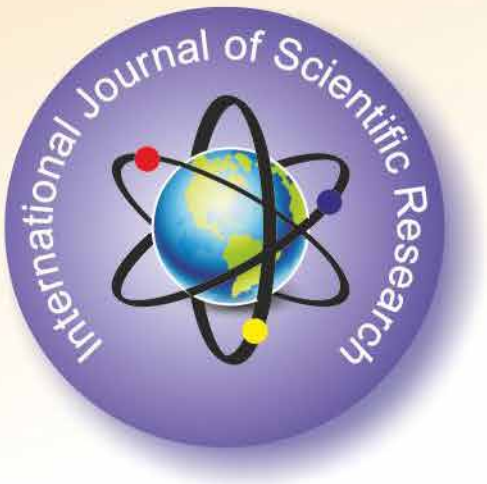
International Journal of Scientific Research

Indexed with International ISSN Directory, Paris

Volume 1 | Issue 2 | July 2012



ISSN No. 2277 – 8179

A Multi-Subject Journal

ISSN No. 2277 – 8179

International Journal of Scientific Research

Journal for All Subjects

Advertisement Details

Position	B/W (Single Color)	Fore Color
Full Inside Cover	₹ 6250	₹ 12500
Full Page (Inside)	₹ 5000	-

Subscription Details

Period	Amount Payable
One Year (12 Issues)	₹ 3000
Two Year (24 issues)	₹ 5800
Three Year (36 issues)	₹ 8700
Five Year (60 issues)	₹ 14400

You can download the Advertisement / Subscription Form from website www.gra.in. You will require to print the form. Please fill the form completely and send it to the **Editor, International Journal of Scientific Research** along with the payment in the form of Demand Draft/Cheque at Par drawn in favour of **International Journal of Scientific Research** payable at Ahmedabad.

Editor-In-Chief

Khansa Memon
Editor, Sarah Publishing Academy

Editorial Advisory Board

Dr. Ashok S. Pawar
Associate Professor, Dept. of Economic
Dr. Babaasaheb Ambedkar
Marathwada.University, Aurngabad

Dr.(Prof) Vijay Kumar Soni
Principal,
Jai Meenesh College, Phagi,
Jaipur, Rajasthan

Dr. A.R. Saravankumar
Assistant Professor in Education
DDE, Alagappa University,
Tamilnadu

Dr.R.Ramachandran
Commerce Dde
Annamalai University
Tamilnadu India

Dr. R Ganpathy
Assistant Professor in Commerce
Directorate of Distance Education
Alagappa University Karaikudi.

Dr. Amit Bandyopadhyay
Assistant Professor
Department of Physiology
University of Calcutta

Dr. V. Kumaravel,
Professor and Head
Vivekanandha Buss. School for Women
Tiruchengode, Namakkal Dist

Dr. K. Prabhakar,
Professor,
Department of Manag. Studies,
Velammal Engg College, Chennai

Dr. Sunita J. Rathod
Maharashtra Education
Service Group-B
DIET Dist. Jalna

1. Thoughts, language vision and example in published research paper are entirely of author of research paper. It is not necessary that both editor and editorial board are satisfied by the research paper. The responsibility of the matter of research paper/article is entirely of author.
2. Editing of the **International Journal of Scientific Research** is processed without any remittance. The selection and publication is done after recommendations of atleast two subject expert referees.
3. In any condition if any National/International University denies accepting the research paper published in IJSR then it is not the responsibility of Editor, Publisher and Management.
4. Only the first author is entitle to receive the copies of all co-authors
5. Before re-use of published research paper in any manner, it is compulsory to take written permission from the Editor-IJSR, unless it will be assumed as disobedience of copyright rules.
5. All the legal undertaking related to **International Journal of Scientific Research** is subject to Ahmedabad Jurisdiction.
7. The research journal will be send by normal post. If the journal is not received by the author of research papers then it will not be the responsibility of the Editor and publisher. The amount for registered post should be borne by author of the research paper in case of second copy of the journal.

Editor,
INTERNATIONAL JOURNAL OF SCIENTIFIC RESEARCH
3, SUHANA, Nr. Rubi Apartment, B/H NID, Rajnagar Road,
Paldi – 380007. Ahmedabad-Gujarat. (INDIA)
Contact: +91 98247 02127, +91 88660 03636
Www.theglobaljournals.com | ijsr@theglobaljournals.com

INDEX

Sr. No.	Title	Author	Subject	Page No.
1	Ionic composition of a freshwater lake and its implications on aquaculture	Dr. Shankar P. Hosmani	Biotechnology	1-2
2	Growth and Performance of Mutual Fund Industry in India	Dr. M. K. Maru	Commerce	3-4
3	Waste Management: A New Paradigm of Contemporary Business	Dr. Vipul Chalotra	Commerce	5-6
4	Rural Financial Services in J&K (A study in the field of financial services sector development)	Tarsem lal	Commerce	7-8
5	Banyan, the National Tree of India	Dr. J.K. Sehgal	Commerce	9-10
6	Impact of Online Marketing on Customers with Special Reference to Coimbatore City	Dr. R. Ganapathi	Commerce	11-15
7	Customers' Attitude towards Housing Loan With Reference to Commercial and Rural Banks	Dr. R. Ganapathi, Mrs. B. VIDYA	Commerce	16-23
8	Consumer Behaviour towards Broiler Chicken Retail Stores With Reference to Madurai City	P. Easwaran, J. Gnanadevan, Dr. R. Ganapathi	Commerce	24-30
9	Data Security and Protection in Cloud Computing	Shameena Begum, V. Ratna Vasuki, K.V.V.Srinivas	Computer Science	31-34
10	Foreign Direct Investment in India – An Explanatory Study	Dr. K.Madhu Babu	Economics	35-38
11	Growth - Saving Causality in India: A Cointegration Analysis	Dr. Shradha H. Budhedeo	Economics	39-42
12	Constitutional perspectives on Labour Wages in India	Dr. Shankar Ambhore, Dr. Dilip Arjune, Manish Parshuram Pawar, Dr. Ashok Shankarrao Pawar	Economics	43-45
13	A Critical Study of Special Economic Zones in India	Dr. Shankar Ambhore, Dr. Dilip Arjune, Manish Parshuram Pawar, Dr. Ashok Shankarrao Pawar	Economics	46-48
14	Industrial Relations - Settlement of Disputes in India	Dr. Shankar Ambhore, Dr. Dilip Arjune, Manish Parshuram Pawar, Dr. Ashok Shankarrao Pawar	Economics	49-50
15	AMLA - ITS MEDICINAL USES	Manisha Gaur	Economics	51-52
16	The Role Of Total Quality Management In Higher Education	Ramesh B. Sakhiya	Education	53-55
17	Perceived Competencies Of Graduate Teacher Trainees In The Intensive Teaching Practice [I T P] Session	Dr M. Parimala Fathima, N.Sasikumar, M. Panimalar Roja	Education	56-58
18	Uchch Siksha Ki Rah Men Dushvariyan	Dr. Anup Chaturvedi	Education	59-60
19	Fault Diagnoses of Rotating Machinery with Advance Signal Processing Methods	Prof. Divyang H. Pandya, Prof. Ankit A. Darji	Engineering	61-63
20	A Hybrid Neural Network Approach for Wind Speed Prediction	S.N Deepa, K.gnana Sheela	Engineering	64-67
21	A Study on Phishing: Preventions and Anti-Phishing Solutions	V.Karamchand Gandhi, Prof R.Senthil Kumar	Engineering	68-69
22	The Killari 1993 Intracratonic Earthquake- a Comparative Study	S.S. Patil, K.L. Karkare, I.B. Ghorade	Environment	70-72
23	Cosmic Plants as Alternative Medicine	Dr. Sneh Harshendra Sharma	Environment	73-77

24	Green Initiatives for Reducing Carbon Footprint	Dr Mahalaxmi Krishnan	Environment Science	78-79
25	Prediction of Urban Sprawl in Hyderabad City using Spatial Model, Remote Sensing and GIS Techniques	S. Indhira Gandhi, Dr. V. Madha Suresh	Geography	80-81
26	Tectono-Provenance and Reservoir Rock Characteristics of the Tipam Sandstones in Parts of Upper Assam Basin	Dr. Pradip Borgohain	Geology	82-84
27	(Jansanchar Aur Bharatiya Samaj)	Dr Subodh Kumar	Journalism	85-86
28	An Overview of Industrial Disputes Settlement Authorities in India	Manish Parshuram Pawar, Dr. Ashok Shankarrao Pawar	Law	87-88
29	Innovative Method of Role Play for Developing English Language Teaching and Learning	K Rajkumar	Literature	89-91
30	Impact of Workers Participation in Management on Industrial Relations	Anuradha Averineni	Management	92-93
31	Consumers Preferences , Behaviour and Satisfaction with respect to banking services quality in Ghaziabad(NCR Region)	Prof(Dr.)H. P. Pandey, Mr. Ashish kumar Singh	Management	94-96
32	Factors Influencing Employee Branding in Higher Educational Institutions: A Special Reference to Management Institutions in Virudhunagar District in Tamilnadu	Jegadeeswari. Mani, Dr. S. Franklin John S.	Management	97-98
33	Evaluation of Service Quality in Internet Banking: An Empirical Study in Coimbatore	Ms. R. Gokilavani, Dr. R. Ganapathi	Management	99-101
34	To Study the Relationship Between Gender & Banking Preferences of Management Graduates at Ibmrd, Ahmednagar	Rajendrasingh Pardeshi, Gadekar Vithal Laxman	Management	102-103
35	FCB model of Advertising Strategy	Prof. Arvind Rathod	Management	104-107
36	Assessing Beneficiary Satisfaction with Service Delivery of Non Governmental Organizations (NGOs)	Dr Papori Baruah, Bhaskar Jyoti Barthakur	Management	108-111
37	Current Trends in Human Resource Management	Dr. Kalyani Kenneth, Mrs.R.Aruna jayamani	Management	112-113
38	“Indian Banking – A Future Ahead”	Haresh B. Barot	Management	114-116
39	Financial Inclusion-Banking Services to the Common Man	Dr. M. Venkata Subba Reddy, Mr. M.s.udaya Banu	Management	117-118
40	A study of Service Marketing Mix w.r.to b-schools in Mumbai	Dr. Balaji S. Mudholkar	Management	119-120
41	A Study on the Customers Opinion on the Benefits of the Credit Cards Around Combatore District	Mrs. G. Murali Manokari	Management	121-123
42	A Study on the Job Satisfaction of the Employees at Sri Kannan Departmental Stores, Coimbatore	Mrs. G. Murali Manokari, Mrs.r.kanaka Rathinam, Mr. G. Lenin Kumar	Management	124-126
43	Foreign Direct Investment In Indian Retail Sector: A Critical Evaluation	Dr. Raghavendra Dwivedi, Ram Kumar	Management	127-128
44	Emerging Challenges to Cyber Security-Internet Monitoring with Specific reference to National Security	Triveni Singh	Management	129-131
45	An Empirical Study of Consumer Impulse Buying Behavior in domestic Markets (special reference to Ahmednagar, (M.S) India.)	Gadekar Vithal Laxman	Marketing	132-135
46	Insomnia and the performance of general population: Results from the Insomnia Survey	Miss Ketaki Sathe, Dr G S Shekhawat	Medical Science	136-137
47	Transition in Human Resource for Health: Challenges Ahead	Dr. Pawan Kumar, Dr. Abdul Majeed Khan	Medical Science	138-139

48	Kartageners Syndrome- A Case Report	Dr. Ramakrishna Ghubde, Dr. Archana Shekokar	Medical Science	140-141
49	Perceptual challenges in auditory neural processing in neurodegenerative conditions like Fredereich Ataxia	Mr. Ayas Muhammed, Ms. Archana, Dr. Rajashekhar	Medical Science	142-143
50	Transient Auditory Dysynchrony Due to Non-Maturational Causes Evidenced by ABR – A Case Report	HariPrakash. P, Sangeetha. G, Bhargavi P.G	Medical Science	144-146
51	Study on Sphenoid Sinsuses Variants in Magnetic Resonance Imaging of South Indian Population	Suresh Sukumar, Sushil Yadav	Medical Science	147-148
52	A Study to Find out the Prevalence and Effectiveness of Occupational Therapy Intervention for Pain and Activity Performance in Mobile Users with Risk of Repetitive Strain Injury	KR.Banumathe, V.Guruprasad, Leena Ann Lukose	Medical Science	149-151
53	Modified Falls Behavioral Scale for Indian Community Dwelling Older Adults	V.Guruprasad, Sebestina A D'Souza, KR.Banumathe	Medical Science	152-154
54	The Essence of Employees Training and its Impact on the Work Force in an Industry	Dr. Mohan Singhe	Organization Behavior	155-156
55	Scientific Behaviourism of Watson and Hull : A Philosophical Perspective	Dr. Jatinder Kumar Sharma	Philosophy	157-158
56	The growth of manganese oxide thin films by spray pyrolysis technique	M.Sudha, P.Duraisamy	Physics	159-161
57	Terrorism and Competitive Terrorism in India	S. Sreejith, P. Sakthivel	Political Science	162-164
58	Kuposhan Se Karahta Bachpan	Dr. Anup Chaturvedi	Social Science	165

Research Paper

Volume : 1 | Issue : 2 | July 2012 • ISSN No 2277 - 8179

An Overview of Industrial Disputes Settlement Authorities in India

Law

KEYWORDS : Courts of Inquiry, Labour Court, Adjudicatory Authorities, Industrial Tribunals, National Tribunals, Conciliation Officer

Manish Parshuram Pawar Research Student in Law, Department of P.G. Studies in Law, Dr. BAMU, Aurangabad (Maharashtra)

Dr. Ashok Shankarrao Pawar Research Guide and Associate Professor, Department of Economics, Dr. BAMU, Aurangabad (Maharashtra)

ABSTRACT

The main purpose of the Labour Code Act No. 71 of 1987 [hereinafter referred to as LCA] is to involve labor in the process of building the national economy so as to achieve prosperity and improve living conditions. Similarly, the main object of the Industrial Disputes Act, 1947 [hereinafter referred to as IDA] is the investigation and settlement of industrial disputes. With these objects in view, various authorities have been created by the respective enactments. The adjudication of labour disputes has at the first instance been kept out of the jurisdiction of the Municipal Courts so that efforts may be made for settlement of such disputes through some other agencies. The Works Committee, Conciliation Officer, Board of Conciliation, Courts of Inquiry, Labour Courts or the Industrial Tribunal, all aim at amicable settlement of the industrial dispute. The various modes of settlement of disputes provided by the Acts may broadly be classified under three heads: (1) Conciliation; (2) Arbitration, (3) Adjudication.

An Overview of Industrial Disputes Settlement Authorities in India

The Labour Courts, Industrial Tribunals and National Tribunal are adjudicatory authorities that decide any dispute referred under the Act. S.10A of the IDA makes provision for voluntary reference of disputes to arbitration. Apart from the above, provision has also been made for the constitution of a Court of inquiry whose main function is to inquire into any matter appearing to be connected with or relevant to an industrial dispute.

Adjudicatory Authorities:
The IDA and LCA provides for the constitution of various adjudicatory authorities for the settlement of industrial disputes. These include:

Labour Court:
Section 137 of LCA provides for the constitution of one or more Labor Courts in each governate. Each Court shall be constituted by a sole judge named by the Minister of Justice on the recommendation of the presiding judge of the Court of Appeal. The Labor Courts have jurisdiction over the following matters:

a) Civil and penal actions, matters and disputes referred to in LCA, the law on pensions and social security for workers and Resolutions of the Revolutionary Command Council;
b) Temporary decisions involving actions within the jurisdiction of the Labor Courts. If there is no Labor Court, the Court of first instance shall have jurisdiction;
c) Cases and any other matters which, according to the laws in force fall within the jurisdiction of the Labor Court[1].

Industrial Tribunals:
In India, the Industrial Tribunals were for first time created by the Industrial Disputes Act, 1947. Commenting upon the status of these tribunals the Supreme Court has observed that the tribunals under the Act are invested with many trappings of a Court but do not have the same status as Courts[2]. These Tribunals need not follow the strict technicalities of law in adjudication of industrial disputes.

The power to constitute Industrial Tribunal is conferred upon the Appropriate Government. The appointment of an Industrial Tribunal together with the names of persons constituting the Tribunal shall be notified in the Official Gazette. Further, one or more than one tribunals may, in the discretion of Appropriate Government; be constituted. It is the duty of the Tribunal to adjudicate upon any industrial dispute relating to any matter, whether specified in the Second Schedule or the Third Schedule. These tribunals shall perform such other functions as may be assigned to them under this Act.

The Tribunal shall consist of one person only, who shall be appointed by the Appropriate Government. Any person having one of the following qualifications may be appointed as the presiding officer of the Industrial Tribunal, namely:

a) if he is, or has been, a judge of a High Court ; or

b) if he has for a period of not less than three years, been a District Judge an Additional District Judge.

It is also provided by S.7A (4) that the Appropriate Government, if it thinks fit, may appoint two persons as assessors to advise the Tribunal in the proceedings before it. These Tribunals are important for many practical reasons; First, only experienced persons of high integrity can be appointed as presiding officer of the Tribunal as stated above. Secondly, almost any important matter can be submitted for adjudication to the Tribunal including questions relating to wages, bonus, provident- fund, gratuity, dismissal, etc. Thirdly, the Tribunals enjoy unlimited powers so long as they act within the scope of their authority.

The Tribunal is a judicial body[3] or at any rate a quasi-judicial body. Therefore, a Tribunal must serve notice upon the parties of the reference by name and any award made without serving such notices is fundamentally wrong[4]. It could make a suitable award for bringing about harmonious relations between the employers and workmen and can direct reinstatement of a workman if it is necessary in the interest of industrial peace[5]. The Tribunal while arriving at a finding in a matter may rely on data available to it otherwise than from evidence adduced on behalf of the parties[6].

While an application was made for quashing an award of the Industrial Tribunal, the Supreme Court held that no writ can be issued against a Tribunal which has ceased to exist[7]. It is clear from the IDA itself that Tribunals are constituted when an industrial dispute arises and normally function as long as such a dispute is not disposed of. The Tribunals can be appointed for a limited period or for deciding a specified number of disputes. When a. new Tribunal is appointed it may start hearing of the case from the beginning, particularly when any prejudice is likely to be caused to any party[8]. It is open to either party to point out and convince the Tribunal that prejudice will be caused if a de nova trial is not held[9].

In Brooke Bond India[10], the services of a probationer before the expiry of the probationary period were terminated without assigning any reasons, in accordance with the terms of contract. The Tribunal went into the validity of the order of termination. The Tribunal had to see whether the action of the employer was mala fide or whether it amounted to victimisation of the employee or to an unfair labour practice, or was so capricious or unreasonable as would lead to the inference that it had been passed for ulterior motive and was not in bona fide exercise of the power arising out of the contract.

Where some of the employees of a company though employed outside the State of Delhi, not only received their salaries from the Delhi Office but were also controlled by the Delhi Office, The Supreme Court, upholding the decision of the Industrial Tribunal held the Tribunal at Delhi had jurisdiction over those employees acting outside the State of Delhi[11].

In Lipton Ltd case[12], the award of the Industrial Tribunal, Delhi, was confirmed by the Labour Appellate Tribunal. When a similar dispute between the same company and their workmen at Madras arose, the company contended that the award of Industrial Tribunal, Delhi was binding upon the workmen working at Madras also. The Madras High Court held that the Delhi award could not conclude the issue between the management and its workmen at Madras[13]. It was one of the pieces of evidence which the Tribunal at Madras was entitled to consider, but what probative value should be given to such an award was for the Tribunal to decide.

Impact of Delay in filing appeal in labour matters: In Daya Ram[14] there was delay of 52 days in filing of the appeal. The Industrial Court dismissed the appeal solely on ground of delay of 52 days. The High Court also confirmed the order of the Industrial Court. It was held by the Supreme Court that the Industrial Court should not have dismissed the case solely on ground of delay of 52 days. The High Court, also did not apply its mind to case on merit. The dispute was raised for proper adjudication. Therefore, the Supreme Court remitted the case back to Industrial Court to decide it on merit.

An appeal against the decision of the Industrial Tribunal:
Once a question was raised, whether an appeal could be preferred from the decision of an Industrial Tribunal. The answer to this question rests on another question; whether an award of the Tribunal can be said to be "determination made by the Court or Tribunal" under Art.136 of the Constitution. Replying to this question, Kama, CJ in Bharat Bank Ltd[15], made the following observations:

In my opinion, the functions and duties of the Industrial Tribunal are very much like those of a body discharging judicial function, although it is not a court. The rules framed by the Tribunal require evidence to be taken and witnesses to be examined, cross-examined and re-examined. The Act constituting the Tribunal imposes penalties for incorrect statements made before the Tribunal. While the powers of the Industrial Tribunal in some respects are different from those of an ordinary Civil Court and it has jurisdiction and power to give relief which a Civil Court administering the law of the land (for instance, ordering the reinstatement of a workman) does not possess, in the discharge of its duties it is essentially working as a judicial body. The fact that its determination has to be followed by an order of the Government which makes the award binding, or that in cases where Government is a party the legislature is permitted to revise the decision, or that the Government is empowered to fix the period of the operation of the award do not, to my mind, alter the nature and character of the functions of the Tribunal. Having considered all the provisions of the Act it seems to me clear that the Tribunal is discharging functions very near to those of a Court, although it is not a Court in the technical sense of the word.

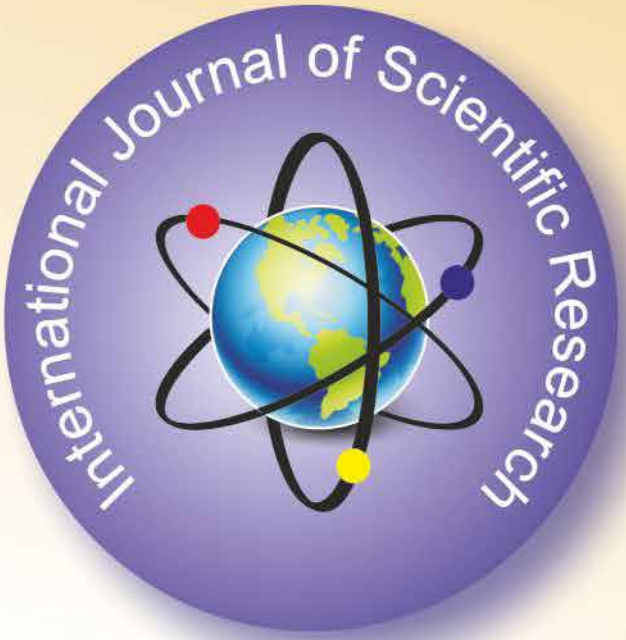
In view of the above observations it is clear that an appeal can be made against the decision of an industrial tribunal.

National Tribunals:
Unlike the other authorities under the IDA the, National Tribunals can only be constituted by the Central Government. The power is to be exercised by issuing of notification in the Official Gazette. The name of the person constituting the National Tribunal[16] shall also be notified in the Official Gazette. The Central Government 'may' constitute one or more Tribunals. National Industrial Tribunals are constituted for the adjudication of industrial dispute, which in the opinion of the Central Government; i) involves a question of national importance or ii) are of such a nature that the industrial establishments situated in more than one State are likely to be interested in or affected by such dispute. It is sole discretion of the Central Government to decide that the industrial dispute involves a question of national importance or industrial establishments situated in more than one State are interested in or affected by the dispute.

A National Tribunal shall consist of one person to be appointed by the Central Government. Such a person shall not be qualified for appointment as the presiding officer of National Tribunal unless he is or has been a Judge of a High Court. The Central Government may also, if it thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

REFERENCE

S.139 of LCA. | J.K, Iron and Steel Co Kanpur v. Iron and Steel Mazdoor Union, AIR 1956 SC 231. | Vishwamitra Press (Karyalaya) Kanpur v. Their Workmen, AIR 1953 SC 41. | Indian Mining Association and Others v. Koyla Mazdoor Panchait and Others, (1952-53) 4 FJR 77 (LAT). | M.K Ranganathan and another v. The Madras Electric Tramways Ltd, (1952-53) 4 FJR 77 (Mad). | Electro-mechanical Industries Ltd v. Tribunal, AIR 1950 Mad 889. | Minerva Mills Ltd Bangalore v. Their Workmen, AIR -1953 SC 505. | Ibid. | Gowri Silk Mills Lid v. Their Workmen, (1956) ILLJ 49. | Brooke Bond India v. Y.K. Gautam , AIR 1973 SC 2634. | Lipton Ltd. and another v. Their Employees, AIR 1959 SC 676. | Ibid. | Workmen of M/s. Lipton Madras v. M/s. Lipton Ltd. Madras, (1958) II LLJ 602 (Mad). Chief Engineers v. Workmen, (1981) II LLJ 147. | Daya Ram v. Divisional Engineer (C & M), M.P. Electricity Board, (2001) II LLJ 422 (SC). | Bharat Bank Ltd Delhi v. Their Employees, AIR 1950 SC 188. | S.7 B of the Industrial Disputes Act, 1947.



Sara Publishing Academy
INTERNATIONAL JOURNAL OF SCIENTIFIC RESEARCH
Journal for All Subjects

The Editor,
INTERNATIONAL JOURNAL OF SCIENTIFIC RESEARCH
8-A, BANAS, Opp. SLU Girls College, NR. Congress Bhavan,
Paldi – 380006. Ahmedabad-Gujarat. (INDIA)
Contact: +91 98247 02127, +91 88660 03636
Website : www.theglobaljournals.com
Email Id: ijsr@theglobaljournals.com

Printed at Unique Offset, Novatsing Rupam Estate, Opp. Abhay Estate, Tavdipura, Shahibaug, Ahmedabad