

**17. Unfair labour practices on the part of employers: (1) No employer or trade union of employers and no person acting on behalf of either shall--**

- (a) impose any condition in a contract of employment seeking to restrain the right of a person who is a party to such contract to join a trade union or continue his membership of a trade union;**
- (b) refuse to employ or refuse to continue to employ any person on the ground that such person is, or is not a member or office-bearer of a trade union;**
- (c) discriminate against any person in regard to any employment, promotion, condition of employment or working condition on the ground that such person is, or is not, a member or office-bearer of a trade union;**
- (d) dismiss, discharge, remove from employment or transfer or threaten to dismiss, discharge or remove from employment or transfer a workman or injure or threaten to injure him in respect of his employment by reason that the workman--**
  - (i) is or proposes to become, or seeks to persuade any other person to become, a member or office-bearer of a trade union; or**
  - (ii) participates in the promotion, formation or activities of a trade union;**

- (e) induce any person to refrain from becoming, or to cease to be a member or office-bearer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person;
- (f) compel or attempt to compel any office-bearer of the collective bargaining agent to arrive at a settlement by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power and telephone facilities and such other methods;
- (g) interfere with or in any way influence the balloting provided for in Section 24;
- (h) recruit any new workman during the period of a notice of strike under Section 36 or during the currency of a strike which is not illegal except where the conciliator having been satisfied that complete cessation of work is likely to cause serious damage to the machinery or installation, has permitted temporary employment of a limited number of workmen in the section where the damage is likely to occur;
- (i) close down the whole of the establishment in contravention of Standing Order 11-A of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (VI of 1968); or
- (j) commence, continue, instigate or incite others to take part in, or expend or supply money or otherwise act in furtherance or support of, an illegal lock-out.

(2) (Nothing in sub-section (1) shall be deemed to preclude an employer from requiring that a person upon his appointment or promotion to managerial position shall cease to be, and shall be disqualified from being, a member or office-bearer of a trade union of workmen.)

Closure of whole establishment without permission of Labour Court under S.O. 11A, Standing Orders Ordinance, 1968 would be unfair labour practice. It would not be an act of unfair labour practice under S. 63(1)(i) (Now Sec 17(1)(i)) where more than 50% of the employees are terminated from service. 2004 TD (Labour) 22.

If whole establishment was closed without permission of Labour Court, then it would be an act of unfair labour practice by employer, but if more than 50% employees were terminated, it had not been made act of unfair labour practice under S. 63 of Industrial Relations Ordinance, 2002 (Now Sec. 17 of Punjab Industrial Relations Act, 2010). Act of terminating more than 50% of employees might be an illegal act which could be cognizable by Labour Court and appeal could be heard by Labour Tribunal, but it could not be construed to be an act of unfair labour practice by employer. 2006 PLC 404.

**18. Unfair labour practices on the part of workmen:** (1) No workman or other person or trade union of workmen shall--

- (a) persuade a workman to join or refrain from joining trade union during working hours;
- (b) intimidate any person to become, or refrain from becoming, or to continue to be, or to cease to be a member or office-bearer of a trade union;
- (c) induce any person to refrain from becoming, or cease to be a member or office-bearer of a trade union, by intimidating or conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person;
- (d) compel or attempt to compel the employer to accept any demand by using intimidation, coercion, pressure threat, confinement to, or ouster from a place, dispossession, assault, physical injury, disconnection of telephone, water or power facilities or such other methods; or
- (e) commence, continue, instigate or incite others to take part in, or expend or supply money or

otherwise act in furtherance of  
illegal strike or a go-slow.

**Explanation:** In clause (e) the expression 'go-slow' means an organized, deliberate and purposeful slowing down of normal output, or the deterioration of the normal quality of work by a body of workmen acting in a concerted manner, but does not include the slowing down of normal output, or the deterioration of the normal quality of work which is due to mechanical defect, breakdown of machinery, failure or defect in power supply or in the supply of normal materials and spare parts of machinery.

(2) It shall be an unfair practice for a trade union to interfere with a ballot held under Section 24 by the exercise of undue influence, intimidation, impersonation or bribery through its executive or through any person acting on its behalf.

### COMMENTS

1. **Unfair labour practice--Essential ingredients:** Essential ingredients of an offence under Section 16(1)(d) (Now Section 18(1)(d)) are:--

- (a) that an employer should be compelled or an attempt should be made to compel him to accept any demand;
- (b) such compulsion or attempt to compel should be done by using intimidation, coercion, etc.; and
- (c) it should be done by a workman, a Trade Union of workmen or other persons acting on behalf of such Trade Union. **PLD 1977 Kar. 145.**

Just as the employers are forbidden from pressurising or threatening workers in respect of trade union activities, as already noticed in Section 15, the workmen have also been forbidden to do the same on almost the same grounds. Thus no workman, or trade union of workmen, or any one acting on their behalf shall persuade a workman to join or refrain from joining a trade union during working hours or to intimidate any person to become, or refrain from becoming, or to continue to be, or to cease to be, a member or officer of a trade union or compel or attempt to compel the employer to sign a memorandum of settlement by using intimidation, threat, coercion, etc., etc.

Words "intimidation", "coercion", "pressure", "threat" and "confinement" indicate use of objective force or pressure tactics having some

has been collective bargaining performed by a recognized trade union until a collective bargaining agreement is entered into between the provisions of the Act, be performed by the employer or the provisions of the Act, be recognized by the employer or union which has been recognized by the employer or employers.

**64. Penalty for unfair labour practices: (1)** A person who contravenes the provisions of Section 10, he shall be liable to fine which may extend to twenty thousand rupees

but not less than five thousand rupees.

(2) A person who contravenes the provisions of Section 17, he shall be liable to fine which may extend to thirty thousand rupees but not less than ten thousand rupees.

(3) A person who contravenes the provisions of Section 18, other than those of clause (d) of sub-section (1) thereof, he shall be liable to fine which may extend to twenty thousand rupees but not less than five thousand rupees.

(4) An office-bearer of a trade union, a workman or person other than a workman who contravenes or abets the contravention of the provisions of clause (d) of sub-section (1) of Section 18 shall be liable to fine which may extend to thirty thousand rupees but not less than ten thousand rupees.

(5) Where the person accused of an offence under sub-section (4) is an office-bearer of a trade union, the Labour Court may, in addition to any other punishment which it may award to such person under that sub-section, direct that he shall cease to hold the office of the trade union and be disqualified from holding any office in any trade union during the term immediately following the term in which he so ceases to hold office.

(6) A person who contravenes the provisions of Section 58, he shall be liable to pay fine which may extend to fifty thousand rupees but not less than twenty thousand rupees.

### COMMENTS

1. **Prosecution of Government servants:** Managing Director of a corporation in Punjab is a Government servant. Prosecution of such officer without sanction of Government for acts done in discharge of his official duties was held to be illegal. 1976 PLC 112.

2. **Unfair labour practice on part of employers:** Complaint against alleged unfair labour practice was filed by employee after about three and-a-half years of alleged incident without any explanation of such delay. Complainant employee had already chosen forum available for civil litigation under the Ordinance, and civil litigation in that connection was going on between the parties. Such controversy between parties which was of civil

nature, could not be converted into criminal litigation at that stage in circumstances. Complaint filed by employee against employers, was not maintainable and was liable to be dismissed. **1995 PLC 215.**

**3. Complaint against unfair labour practice--maintainability:** Complaint against alleged unfair labour practice was filed by employee after a delay of about ten months and such a long delay in filing complaint was totally unexplained. Absence of any justified explanation in such a long delay in filing complaint, not only would create doubts, benefit of which would go to accused/employer, but also the very complaint itself would become doubtful and unreliable. Argument, that because it was not a civil case, thus no limitation was provided, was misleading because it was not the provisions of Limitation Act under which such delay would become fatal, but was a basic and well-settled principle of law. No plausible or justified explanation having been tendered by complainant for filing delayed complaint, same was not maintainable. **1996 PLC 85.**

Conversion of complaint for unfair labour practice into civil petition is not permissible under law. Order allowing such conversion would be wholly illegal and without jurisdiction. **2004 TD (Labour) 158.**

**4. Unfair labour practice by employers:** Employees had alleged that they were being victimized by employers on account of their trade union activities and employers were intending to terminate their services which would be an act of unfair labour practice. No instance of any unfair labour practice had been given by employees. Mere termination of service of some employees who had already filed grievance petition before Labour Court, would not make acts of employers as acts of unfair labour practice. Holding of inquiry into misconduct of an employee was a right of employer and if on inquiry some employee was found guilty, it was the right of employer to award him punishment. If any employee was proceeded against with inquiry and in consequence of inquiry report his service was terminated then act of employers could not be termed to be an act of unfair labour practice, particularly when employees had resorted to legal course of filing grievance petition and not filing complaint under S. 53, Industrial Relations Ordinance, 1969 (Now Sec. 64 of Punjab Industrial Relations Act, 2010). **2004 PLC 229.**