

# COLLECTIVE BARGAINING

## Abstract

Collective bargaining is a procedure by which the terms and conditions of worker are regulated by agreements between their bargaining agents and employers. According to Fosson JA, there are 4 types of collective bargaining; Distributive bargaining, Integrative bargaining, Productivity bargaining and Composite bargaining. The objectives of bargaining are to maintain cordial relationship between the employer and the employees, to protect the rights and interests of workers through collective action and keeping in mind that all the workers are treated on equality basis and it should be emphasized that unilateral decision on the part of the employee doesn't occurs, to ensure participation of trade unions in industry, to promote industrial democracy and harmony. The process of collective bargain involves negotiation and discussion between the management and union. It is a complex process involving a number of procedures, techniques and tools. Collective bargaining operates at 3 levels National, Sectoral and Company level.

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## I. INTRODUCTION

Collective bargaining is a process in which the employer's representatives meet the employee's representative for making an attempt to negotiate the conditions and contract governing employer-employee union relationship. It is called 'collective' as both parties act as a group rather than as individuals. It is known as 'bargaining' as it is the process of reaching an agreement through negotiation. Collective bargaining refers to a process by which employers on one hand and representative of the employees on the other hand, attempt to arrive on agreements covering the conditions under which employees will contribute and be compensated for their services.<sup>1</sup>

## II. TYPES OF ACTIVITIES IN COLLECTIVE BARGAINING

According to Fosson JA, there are 4 types of collective bargaining. These are:

- 1. Distributive Bargaining:** In this type of collective bargaining, one party is at gain whereas other party is at loss. The common economic issues discussed under this are wages, salary and other economical issues.
- 2. Integrative Bargaining:** In this type, the bargaining is so that both parties are at gain, in planning and implementing a better training program or better evaluation techniques in job.
- 3. Productivity Bargaining:** When there are too many conflicts between both the parties, the restructuring of attitude is required to maintain smooth organizational relations. Here the attitudes of the persons working in the organization are worked upon like trust and distrust, hostility.
- 4. Composite Bargaining:** In this type the workers and the management try to build up consensual relationship among their own groups. There may be conflicts among the employee union or within the management, so market manager works with the employees and finance manager may oppose increase in wages or may urge the union to stop strike which helps to protect the interest of the consumers.<sup>2</sup>

## III. OBJECTIVES

- To maintain cordial relationship between the employer and the employees.
- To protect the rights and interests of workers through collective action and keeping in mind that all the workers are treated on equality basis and it should be emphasized that unilateral decision on the part of the employee doesn't occurs.
- To ensure participation of trade unions in industry.
- To promote industrial democracy and harmony.
- Collective bargaining is a voluntary process so to avoid the need of governmental intervention in industrial matters.
- To maintain employee-employer relation bilaterally.
- To bargain from a position of strength without exploiting the weakness.
- To have a peaceful co-existence for the mutual benefits and progress.
- To arrive at an agreement on wages and other conditions of employment.
- To protect the interests of employees through collective action.<sup>3</sup>

#### IV. PRINCIPLES

- 1. Good Faith Bargaining:** Both parties should approach the negotiation process with an open mind and a sincere intent to reach an agreement. This means they must be willing to exchange information, discuss proposals, and make reasonable efforts to find common ground.
- 2. Mutual Respect and Non-Interference:** Employers and employees (or their representatives) must respect each other's rights and avoid any actions that could hinder the bargaining process, such as coercion, threats, or bad faith tactics.
- 3. Voluntary Participation:** Collective bargaining should be a voluntary process for both parties. They should not be forced or compelled to negotiate against their will.
- 4. Equality and Independence:** The negotiating parties should be considered equal partners in the bargaining process. Employers have the right to manage their businesses, and employees have the right to represent their interests through their chosen representatives (e.g., labor unions).
- 5. Scope of Bargaining:** The subjects or issues that are eligible for negotiation should be clearly defined and agreed upon by both parties. Common bargaining topics include wages, benefits, working hours, overtime, job security, and workplace conditions.
- 6. No Discrimination:** Both parties should refrain from discriminating against any participant in the bargaining process based on factors such as race, gender, age, religion, or any other protected characteristic.
- 7. Transparency and Information Sharing:** Both parties should provide relevant information and data necessary for the bargaining process. Transparent communication helps foster understanding and facilitates reaching agreements.
- 8. Legality and Compliance:** The collective bargaining process must comply with relevant labor laws and regulations governing labor relations in the respective jurisdiction.
- 9. Flexibility and Compromise:** Successful collective bargaining requires a willingness to compromise and find solutions that may require some degree of flexibility from both parties.
- 10. Enforceability and Implementation:** Once an agreement is reached, it should be put in writing and duly signed by both parties. The terms of the agreement should be implemented in good faith.
- 11. Dispute Resolution Mechanisms:** The parties should establish mechanisms to resolve disputes that may arise during the bargaining process or while implementing the collective agreement.
- 12. Social Dialogue and Public Interest:** In some cases, collective bargaining can extend beyond individual company-level negotiations to broader societal issues. Social dialogue

involves discussions between employers, employees, and government representatives to address labor market challenges and promote the public interest.<sup>1</sup>

## V. PRE-REQUISITES OF COLLECTIVE BARGAINING

- There should be existence of progressive management.
- There should be absence of external pressures either on the employer or on the employee.
- There should be proper delegation of authority to the persons heading the negotiation.
- There should be a fact finding approach by the management as well as the union.
- There should be existence of true representation of the negotiators.
- There should be a firm and strong trade union.<sup>2</sup>

## VI. CHARACTERISTICS

- 1. Group Negotiation:** Collective bargaining involves negotiation between representatives of a group of employees (typically a labor union) and representatives of the employer(s) or management. This group negotiation allows for the representation of broader employee interests rather than just individual concerns.
- 2. Collective Representation:** Employees are represented by labor unions or other collective organizations that act as their spokesperson during the bargaining process. These representatives are responsible for voicing the needs and demands of the employee group.
- 3. Mutual Decision-Making:** The essence of collective bargaining is reaching agreements through mutual consent. Both parties participate in the negotiation process, discuss proposals, and ultimately decide on the terms and conditions of employment together.
- 4. Power Balance:** Collective bargaining aims to balance the power dynamics between employers and employees. By negotiating collectively, employees gain strength through unity, allowing them to effectively present their interests and needs to the employer.
- 5. Legal Framework:** Collective bargaining operates within a legal framework, including labor laws and regulations, which outline the rights and obligations of both parties during the negotiation process.
- 6. Voluntary Process:** Participating in collective bargaining is typically voluntary for both employers and employees. While employees may choose to be represented by a union, employers are generally not forced to engage in collective bargaining unless required by law in specific cases.
- 7. Focus on Workplace Issues:** The primary focus of collective bargaining is to address employment-related issues, such as wages, benefits, working hours, overtime pay, job security, workplace safety, and other terms and conditions of employment.

8. **Continuous Process:** Collective bargaining is not a one-time event but an ongoing process. Collective agreements usually have fixed durations (e.g., two or three years), after which negotiations may resume for a new agreement.
9. **Conflict Resolution:** While the aim is to reach a mutually acceptable agreement, conflicts and disagreements may arise during negotiations. Effective collective bargaining often includes mechanisms to resolve disputes and find common ground.
10. **Wider Implications:** The outcomes of collective bargaining can have broader implications beyond the immediate parties involved. Agreements reached through collective bargaining can set standards for similar industries or even influence labor practices at the national level.
11. **Social and Economic Context:** Collective bargaining takes place within the larger context of social, economic, and political factors that can influence the bargaining process and its outcomes.
12. **Flexibility and Adaptability:** As circumstances change, collective bargaining allows both parties to adapt and modify the terms of the agreement to suit evolving needs and conditions.<sup>4</sup>

## VII. PROCESS

1. **Preparation Phase:** Before formal negotiations begin, both parties engage in preparatory activities. Employers analyze their financial situation, business objectives, and potential bargaining issues. Employees, represented by labor unions, conduct surveys, gather member input, and identify their priorities and demands. Each party selects their negotiation team and establishes their mandates and objectives for the bargaining process.
2. **Opening Phase:** The negotiation process formally starts with an opening meeting where both parties present their respective bargaining teams. They also set the ground rules for the negotiations, including agreeing on the negotiation schedule, locations, confidentiality, and communication protocols.
3. **Exploration Phase:** In this phase, both parties exchange information, data, and documentation to support their positions. This includes financial reports, wage and benefits data, productivity statistics, and any other relevant information related to the bargaining issues. The goal is to gain a comprehensive understanding of each other's positions and concerns.
4. **Proposal Phase:** During this phase, both parties present their initial proposals outlining their desired terms and conditions of employment. Proposals typically cover wages, benefits, working hours, job security, workplace conditions, and any other relevant issues. The other party reviews the proposals and provides counterproposals, indicating where they agree and disagree with the initial proposals.
5. **Bargaining Phase:** This phase forms the core of the collective bargaining process. Both parties engage in negotiations and discussions to find common ground and reach

agreements on each issue. Compromises, concessions, and trade-offs may occur as both sides work towards a mutually acceptable solution.

6. **Agreement Phase:** As agreements are reached on each issue, the terms are documented and compiled into a draft collective agreement. This phase involves finalizing the terms and language of the agreement to ensure clarity and enforceability.
7. **Approval and Ratification Phase:** The draft collective agreement is reviewed and approved by both parties' leadership and governing bodies. In the case of labor unions, the agreement is typically subject to a vote by union members to ratify the terms. If ratified, the agreement becomes binding on both parties.
8. **Signing and Implementation Phase:** Once approved and ratified, both parties sign the final version of the collective agreement, making it legally binding. The terms of the collective agreement are then implemented by both parties, requiring adjustments to payroll systems, benefits packages, work schedules, and other relevant aspects of employment.
9. **Monitoring and Compliance Phase:** After implementation, both parties are expected to adhere to the terms of the collective agreement. Any disputes or grievances related to the agreement are typically addressed through established dispute resolution mechanisms outlined in the agreement or through applicable labor laws. Monitoring ensures that the agreement is being followed and complied with by both parties.
10. **Renewal Phase:** Collective agreements usually have fixed durations (e.g., two or three years). As the expiration date approaches, both parties may engage in preparations for the next round of negotiations, beginning a new cycle of the collective bargaining process.<sup>2</sup>

## VIII. LEVELS OF COLLECTIVE BARGAINING

Collective bargaining operates at 3 levels.

1. **National Level:** It provides a ground level bargaining on the terms of employment often taken into consideration major economic goals of the country. These negotiations are between the union federations, central employer associations and government agencies.
2. **Sectoral Bargaining:** It takes into account the standardization of terms of employment in one organization. It finds similarity within each sector across countries and similarity within each country across sectors.
3. **Company Level:** It includes negotiations at the organizational level. It emphasizes on the point that bargaining levels need not to be mutually exclusive.<sup>1</sup>

## IX. ADVANTAGES

- It results in congenial relationships between employer and employees as they understand each other's point of view in terms of expectations of employees and economic and technical problem in organization.

- It is a democratic approach to resolve the organizational issues without the need of governmental interventions.
- It helps in providing flexible adjustment of wages and conditions of employment.
- It helps in better implementation of decision due to the direct involvement of both the parties.
- It allows smooth functioning of organization.
- It helps in retention of employees in the industry.
- It helps in managing conflicts.
- It discourages strike like problems in the company.
- It redresses the imbalance of power by removing grievances in an organized way of negotiations.
- It facilitates better planning.<sup>4</sup>

## **X. DISADVANTAGES**

- There are chances for development of adversary relationships between administration and staff associates.
- Sometimes not possible if the negotiations do not occur properly since unions can interfere with the management of the organization.
- If there is no dispute settled, then it is difficult to promote professionalism.
- Needs good knowledge and training in the collective bargaining.
- The decision is often influenced by power and politics.
- The collective bargaining process may not be fair at all times.
- The possible strikes may affect those grievance benefits being reached to the workers may not be prevented.<sup>4</sup>

## **XI. FACTORS FOR THE SUCCESS OF COLLECTIVE BARGAINING**

Lester and Sister outline factors which determine the success of collective bargaining. They have been grouped into:

- Economic environment factors
- Psychological factors and structure of power relation
- Nature and characters of the product market
- Nature of the labor market
- Capital requirement and cost conditions
- State of business conditions
- Types of industrial relationship:
  - Employers' attitude
  - Workers' attitude
  - Government policy<sup>2</sup>

## **XII. IMPORTANCE OF COLLECTIVE BARGAINING IN NURSING**

Collective bargaining agreements are designed to address the unique circumstances of each facility that falls within the scope of nursing. It should provide the following:

- Safe nursing staffing.
- Safe patient handling.
- Adverse event prevention.
- Maintenance of a safe environment for patient care.
- A process that is time and cost-effective for all patients while protecting patients and nurses.<sup>3</sup>

### **XIII. ROLE OF TNAI IN BARGAINING AND POLICIES FOR STRIKE**

According to Trained Nurses Association of India, the association cannot be legally appointed as a negotiating body at a local, state or national level. It is also well documented that the nurses formed the service association in various states and in many places they also joined paramedical workers and even forth class employees unions, where they lose their professional standing. Keeping in mind the dignity and standard of the nursing profession the association framed following regulations:

TNAI may represent nurses as their collective voice during collective bargaining negotiations with employers or hospital management. As a professional association, TNAI can advocate for nurses' interests, including better wages, benefits, working conditions, and professional development opportunities.

TNAI can gather data and conduct research on nursing-related issues, including salary trends, nurse-to-patient ratios, and workplace safety. This information can strengthen the negotiating position of nurses and contribute to evidence-based bargaining. TNAI may consult with its members to understand their needs, concerns, and priorities. By involving nurses in the decision-making process, TNAI can ensure that bargaining proposals align with the interests of its members.

TNAI can advocate for policies and standards that improve the quality of nursing practice and patient care. These standards may also be discussed during bargaining negotiations to ensure nurses' abilities to provide optimal care.

TNAI may lobby for changes in labor laws and policies related to nurses' rights, working conditions, and collective bargaining. This advocacy can create a more favorable environment for negotiations.<sup>1</sup>

### **XIV. CONCLUSION**

Bargaining may be competitive but collective bargaining generally has more positive outcomes. A major goal of effective bargaining is to make the other party feel satisfied with the outcome. The focus in bargaining should be to create a win-win situation. An effective manager always seeks to do what is just when making decisions that deal with unions. He or she maintains required staffing and ensures a safe working environment. The right of the organization and employee are protected as the manager uses personal policies in a non-conditions leading to conflict has more time and energy to focus on meeting productive organizational and human resource needs.

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