Final Project Essay

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**Regulations and HRM**

**Taft-Hartley Act**

Taft-Hartley Act was passed in 1947; it was sponsored by the United States Senator, Robert A Taft and his representative Fred A, Hartley. This act remained at the cornerstone of the United States labor law even today. This act amended the Wagner Act of 1935, also termed as Labour Management Act of 1947, and discontinued the parts of Federal Anti Injunction Act of 1932.

**History**

The history of this law can be traced back to post-World War II, taking into account the national emergency strikes during the war and the postwar. In 1945 and 1946, there was an unprecedented wave of a number of strikes that affected the economy of the United States, taking into account that about 2 million workers were engaged in strikes. This law was enacted by the 80 United States Congress over the veto of President Harry S Truman. It is asserted that this law was enacted by the Republicans who controlled the 80 th Congress. (Frymer, et, al. 2019). This law received massive support from Democrats, with a number of Republican colleagues who voted to override Truman’s veto. This act restores the balance of power between management and labor, by restricting few activities of the union, such as unfair labor practices listing the rights of employees and employers and empowering president to suspend strikes of labor that can contribute to national emergency. (Frymer, et, al. 2019). One of the major points to note is, the act while preserving the rights of labor aimed at organizing labor, taking into account that labors should be made to bargain collectively. Additionally, it guaranteed the employee’s right not to join union. It is asserted that only those union shops have the right to strike where state laws allowed and there are a majority of workers who are voting in its favor. Such shops required unions to give a 60 day advance notification of strike along with an 80 days federal injunction when a strike threatened to imperil national health or safety. The act narrowed the definition of unfair labor practice by specifying and restricting union political contribution, and it required union officers to deny all the oaths that are taken under Communist affiliation. It would not be wrong to say that this law addresses four major aspects of resource management, interference, bargaining, control, and special conditions. (Frymer, et, al. 2019).

**Taft-Hartley Act and Human Resource Management**

Taft Hartley Act addresses the “activities of union” and “union management”. It describes the following areas

**Unfair Labour Union Practices**

Taft Hartley Act prohibits and eradicates certain labor practices that are perceived to be “unfair”. This act restrains and prohibits employees from exercising their guaranteed bargaining rights, taking into account that a union doesn't have any right to threaten the jobs of employees who vote against union. In a simplified form, this act highlights that the employees who criticize the union or testify against the court cases should not be punished. (Meltzer, et, al. 1956). This act also restricts any unfair action that can result in any discrimination against employees with an aim to discourage and encourage membership in union. Taft Hartley required union to establish and bargain “good faith in employees” and negate any “wild cat” strike. Bargaining of faith requires both management and union to communicate with each other and initiate counter proposals. (Meltzer, et, al. 1956).

**Rights of employees**

The Taft-Hartley Act protects the rights of employees against their union. It incorporates the right to work laws, by prohibiting closed shops. In accordance with this right, a closed shop that asserts employees to join union was considered as a violation of individual rights to freedom of association. It is important to note that there are a number of states in the United States that have enacted such laws, and this act infers "right to work legislation". In accordance with the act, it is asserted that critics of “the right to work” inferred that a company should represent all the employees, as opposed to this that belong to the union. (Meltzer, et, al. 1956).

**Rights of employers**

Under the Taft-Hartley Act, employers are given the right to express their views and opinions regarding union and the result of unionization. It is asserted that the employers have the right to say anything they wish to say about union as long as they are not treating the employees. It is asserted that the right of employers include that they have the right to promise, make direct interference and make coercion. A common example of that of employers infers that employers can claim unionization that might result in plant closing but they cannot say that plan is closed because union has voted in. (Meltzer, et, al. 1956).

**Prohibited Union Practices**

 Taft-Hartley Act prohibited some of the major practices of labor union. Such examples include

**Secondary Boycotts**

 Secondary Boycotts are used as tools to encourage the employees of a secondary employer to strike against their employer. It is asserted that employer should stop doing the business with such employer even if it is the center of the business. (Meltzer, et, al. 1956).

**Sympathy Strikes**

These strikes refer to the boycotts that aim at influencing other employer; it does not refer to the union’s employer to bargain with an unrecognized union. This practice is also termed as a “blackmail picketing”. (Meltzer, et, al. 1956).

**Jurisdictional Strikes**

These strikes refer to boycotts that attempt to force an employer to hire others for work to giver one union to perform a task over the other.

**Case Study 1: Steel Industry**

In 1950, during the Korean War, the North Korean Troop invaded the Republic of Korea in which the United States was involved. Troops were sent to South Korea without asking Congress to declare war on North Korea. It is assumed to be the best time for something to happen that could jeopardize the nation’s defense. It was a negation of the Taft-Hartley Act. During World War II, price control was implemented in order to prevent the shortage and inflation during the wartime. Wage Stabilization Board was directed to make recommendations to control wages and implement changes that could mitigate labor dispute. (Epstein, et, al. 2018). The steel industry rejected the stance of wage increment that was proposed by board. (Rehnquist, et, al. 1986). Truman believed that strike will have severe results, but unable to find some satisfactory solution, he issued an Executive Order of seizing the steel mills. The order was not based on law instead it invokes solely upon the powers that were granted to the president by the United States Constitution. (Epstein, et, al. 2018).

Truman reported situation to Congress but he got no response it made him realize that dealing with similar situations would not automate the government seizure of property in order to settle a labor dispute. The steel company sued the Secretary of Commerce while asking for judgment and injunctive relief. The court was granted an injunction that was preliminary in nature and the court of Appeals stayed the lower court’s decision. It is significant to note tha finding no way out, Taft Hartley Act was the stance that worked to prevent the union from striking initially. Then the administration rejected that iron taking into account that they despised the act and Truman’s veto five years prior. (Epstein, et, al. 2018).The administration section saw industry as a whole, representing the cause of the problem, not the union. It was then highlighted that the steelworkers preferred that the government should seize plants, adhering to them to face an injunction against Taft-Hartley Act. It not only left them unsurprised however Truman did not use the remedies that were made available to him with the help of the Taft-Hartley Act is seeking an injunction that was against national emergency. (Epstein, et, al. 2018).

**Case Study 2 NLBR Vs Truck Drivers Local 449**

NLBR Vs Truck Drivers Local 449 is also called an 8-0 decision by the supreme court of the United States is a case in which the court held a temporary lockout by multiple employer bargaining group that was treated by a strike named as Taft Hartley Act. It refers to the case of truck drivers who were working for linen supply in the companies around New York. Eight of the employers among them formed linen and carried exchange, referring to a must employer association that can act as a collective bargaining agent for the employers. The very first contact was negotiated and the succeeding contract also agreed for implementation. The more recent contact was due on April 30 but none of the successor was negotiated. Finally the teamsters played their role in the whipsaw strike against one of the employers. (Cases, NLRB). The other day, seven other employers blocked their truck drivers and after one-week collecting bargaining agreement was signed that lockout came to end and the locked out works were rehired. The teamster filed unfair labor practice and charged hasn't the seven employees who alleged the lockout violated section. 8 (a) (1) and 8 (a) (3) of the National Labor Relations Act. After an examination of trail it was asserted that the administrative law judge, it was concluded that a ULP had been bound and committed however five-member National Labor Relations Board overruled the examiner. The Board concluded that the lock-out was defensive it was not retaliatory and it was considered unlawful. (Cases, NLRB). However, the appellate court inferred that a temporary lockout that was based on the perceived fact that a strike can only be justified if it would impose an unusual economic hardship on the employer. (Cases, NLRB). Justice Brennan observed the trails and underwent an analysis of the case. He addressed the issue of temporary lockout taking into account that it may be used lawfully as a defense to union strike analysis that threatens and demolish the destruction of the employees who are interested in the bargaining group. It was asserted that the Exchange and the board argued about the preservation of the cohesiveness of the multi-employers association that somewhere justifies the use of lockout. (Cases, NLRB).

This argument was rejected it was inferred that the legislative history of Taft Hartley Act asserted Congress has deferred the judgment on the legality of the multi employee bargaining units leading to a commission. In accordance with the legislative history of Taft-Hartley Act, it was inferred that multi-employer bargaining not only predated the history of the act; in fact, Congress has also rejected and considered the banning of such bargaining. In conclusion, Brennan wrote that the aim of Congress was to let the NRLB make design in a sequence that should be case by case so as the wisdom of bargaining that is associated with permitting of multiemployer. (Cases, NLRB).Brennan inferred that NLRA's protection to the laws of strike is not an absolute decision; the stance of balancing the right of union members to strike against the right of employers has paved the way for “economic hardship” test for lockout. (Rehnquist, et, al. 1986). As a result, the Supreme Court deferred that rule of board and concluded that "a temporary lockout to preserve the multiemployer bargaining basis from the Union strike’s action threat.” (Rehnquist, et, al. 1986).

References

Cases, S. NLRB Rules for Determining the Appropriate Bargaining Unit in Craft and Departmental.

Epstein, R. A. (2018). The Wrong Rights, or: The Inescapable Weaknesses of Modern Liberal Constitutionalism. *U. Chi. L. Rev.*, *85*, 403.

Frymer, P. (2019). The Law of the Workplace. *The Legal Process and the Promise of Justice: Studies Inspired by the Work of Malcolm Feeley*, 215.

Meltzer, B. D. (1956). Single-Employer and Multi-Employer Lockouts Under the Taft-Hartley Act. *The University of Chicago Law Review*, *24*(1), 70-97.

Rehnquist, W. R. (1986). Constitutional law and public opinion. *Suffolk UL Rev.*, *20*, 751.