

"The Employer's Prerogatives And To  
What Extent The Law Has Entrenched  
Those Prerogatives Under The  
Industrial Relations Act, 1967.  
Can The Employees Challenge This  
Matter In The Industrial Court?"

Noor Aza Binti Haji Ahmad  
Diploma In Law  
Mara Institute Of Technology  
Shah Alam

## Contents

### Preface

List of cases

List of statutes

Page

### Chapter I:

Introduction

1

Defination

4

### Chapter II:

Judicial Decisions

16

### Chapter III:

Promotion

23

### Chapter IV:

Transfer

40

### Chapter V:

Termination by retrenchment

51

### Chapter VI:

Dismissal

63

<u>Chapter VII:</u>	Page
Assignment or allocation	78
<u>Chapter VIII:</u>	
General Conclusions	85

"The Employer's Prerogatives And To What Extent The Law Has Entrenched Those Prerogatives Under The Industrial Relations Act, 1967. Can The Employees Challenge This Matter In The Industrial Court?"

## Chapter I

### Introduction

In any industrial organisations there are two parties involve, the employer and the employees, where the employer is the owner. In the old days, the relationship between the employer and employees was known as the relationship of 'master' and 'servant', which was more strict than today.

Nowadays, in modern industry their relationship has become more formal and impersonal. There has been a harmonious relationship between the employer and the employees, thereis for a better production as well as for the benefits to the employees. This is because of the Industrial Relation legislation that has been enacted in order to regulate and to help minimise the industrial conflicts between those two parties.

Professor Wedderburn in his book said that:

"no one wants the law, if it used against them.  
But everyone wants the law if they are seeking  
to gain an advantage or benefit or sheltering  
under its umbrella."<sup>1</sup>

This shows that the various legislative provisions are important in order to maintain employer and employees relationship in a good and peaceful condition. If there are disputes or problems arise from this relationship, then it will affect the production of the industries or companies. After all, this will also affect the country as a whole especially in it's development.

For example, as in Malaysia or other Third World countries, the nature of economic development is more important. So, this has become vital for the employer to maintain the industrial peace and also at the same time try to explore new things or horizon or products. This shows that the employers have an important role to play in the economic development.

That is why in the Industrial Relations Act, 1967, (Revised 1976), contain a certain provision which gives the rights or prerogatives to the employers. However, questions would arise; whether they should enjoy this