

## CHAPTER FOUR

### METHODOLOGY AND SYSTEM OF DESCRIPTION

#### 4.0 Introduction

This chapter describes the data collected and the methodology as well as provides a justification for the choice of genre studied. The role of the specialist informant is also discussed in this chapter. An example of the original judgment of a dismissal case is included and a discussion of the format of the judgment is given. This chapter ends with a look at the format of the ILR based on the moves analysis approach.

#### 4.1 Description of Data

The data used in the study consists of twenty dismissal cases of the Industrial Law Reports taken from *The Industrial Law Reports* from the year 2000 to 2001. *The Industrial Law Report* is a monthly publication which disseminates to the public the latest developments in industrial and labour laws. It contains all contested awards from the Industrial Court of Malaysia and gives a list of disputes amicably settled and/or struck off. The journal provides comprehensive coverage of issues on dismissals, lay-offs, victimization at workplace and terms and conditions of employment. The journal also comprises selected decisions on industrial and labour laws from the Federal Court or Court of Appeal and the High Courts of Malaya, Sabah and Sarawak. SOSCO (Social Security Organization) disputes is featured periodically in this journal. This journal also incorporates a subject index arranged alphabetically for fast and easy reference. The Report appears monthly and is the only industrial law journal in

Malaysia. It is for this reason that this journal was selected as it is the only readily accessible resource for professionals and employees in the related field. The Report provides the English version of headnotes for awards delivered in Bahasa Malaysia (the national language). About eighteen to twenty cases are included in each journal which runs between one hundred thirty to two hundred pages per journal. The journal is written and edited by experienced legal professionals who are closely monitored by an active and renowned Editorial Advisory Board. This Advisory Board consists of previous Chairman/ President of the Industrial Court, advocates and solicitors. The journal is published by The Malaysian Current Law Journal Sdn Bhd (MCLJ) an independent, fully Malaysian owned, legal publishing company. All awards of the Industrial Court reported in the Industrial Law Reports are made available since 1981. It is referred to by Human Resource practitioners, legal professional, union leaders and workers and also by students of law.

For this study, cases and awards in 2000 and 2001 were chosen. During that time, the role of the Industrial Court was highlighted amidst the increasing number of wrongful dismissals and backlog cases. The fact that the appointment of the Industrial Court chairmen was taken lightly further highlights the need and importance of the role of the Industrial Court. There were only nine Industrial Court chairmen at that time (2000) and Dr. Fong Chan Onn, the then Human Resources Ministry had assured the MTUC (Malaysian Trades Union Congress) that the ministry had appointed another six additional Industrial Court chairmen to help speed up and clear backlog of industrial cases (NST, Friday October 13, 2000). The situation has improved somewhat over the last seven years. From a total of fifteen chairmen for the Industrial Court (Industrial Court of Malaysia, 2000) with twelve Chairmen in Kuala Lumpur, one in Penang and

one in Sarawak and Sabah in 2000, there are now (2008) thirty chairmen in various locations throughout Malaysia.

Twenty cases were chosen for the discourse organization and linguistics analysis of the dismissal cases for this study. The selection of twenty dismissal cases was considered sufficient for the analysis for two reasons. Firstly, dismissal cases like legal cases are stable in terms of their rhetorical structure. Although the cases may vary from misconduct to theft, absenteeism, breach of trust, poor work performance and others, the structural organization of the cases are usually regular and constant. Being regular and constant, the twenty cases would tend to contain moves and linguistic features that are similar. Secondly, the cases chosen for this studies are representatively selected from the various types of dismissal cases of the Industrial Court. Dismissal cases that are brought to the Industrial Court range from poor performance, misconduct, absenteeism, insubordination to breach of trust. The bulk of cases of the Industrial Court is the dismissal cases. In this study, the dismissal cases selected comprise poor performance including those of probationers, insubordination, breach of company policy, medical leave and dishonesty to name a few which reflect dismissal cases in nature.

#### **4.2 Justification of Choice of Genre**

The Industrial Law Report ( ILR) is the most prominent and only journal related to industrial, labour and employment law in Malaysia. It is essential to those who are involved in industrial relations to take the time to read and understand the decisions or awards of the Court. Being the only journal on industrial relations, the Industrial Law Report provides a quick and thorough access to previous cases and precedents that have

been set. As no research has been conducted on the Industrial Law Report, it was felt that such a study would be an important contribution to the field of legal discourse.

As any court of law follows the rule of ratio-decidenti or precedents set by earlier cases, the need to read and understand ILR cases is important. Understanding the cases in the ILR will provide the people in industrial relations to see whether the cases they are dealing with have similarities to previous cases as arguments and line of reasoning can be presented with reference to previous cases and decisions which have been awarded.

The Industrial Law Reports are written in English with only some cases in Bahasa Malaysia (the national language). About 85% of the cases of the Industrial Court (personal communication, 2008) are heard in English. Even reports written in Bahasa Malaysia have the headnotes translated into English. The need to learn English and to use it for references as well as to read and understand a case is important in the legal field. As no studies have been done on ILR, the study of this genre can help enhance one's knowledge and awareness of the ILR.

### **4.3 Methodology**

In this study, the Industrial Law Report is examined for its communicative purposes, its rhetorical structure and linguistic features. Moves analysis is used to identify the rhetorical structure and the obligatory and optional moves of the ILR. Linguistic features pertinent to this genre are identified with a focus on the Award move of the report. This particular move is given emphasis due to fact that all the details of the case

are reiterated here as well as the arguments and reasoning of the chairman in the decision of the case.

#### **4.4 Communicative Purposes**

Legal cases are written to serve a definite purpose. The four major communicative purposes of legal cases are:

1. To serve as authentic records of past judgments.
2. To serve as precedents for subsequent cases – *ratio decidendi*.
3. To serve as reminders to legal experts who use them in the arguments in the classroom or in the court of law.
4. To serve as illustrations of certain points of law.

(Bhatia, 1993, p. 119-120)

The researcher will attempt to see whether the communicative purposes of Industrial Law Reports is similar to the communicative purposes of legal cases and its significance in the discourse community will be discussed and identified using the descriptions given above.

#### **4.5 Definition of Terms**

The term which are used in this study are described and discussed below:

#### 4.5.1 Move

A move has been defined by various researchers. It can be defined as “a semantic unit which is related to the writer’s purpose” (Coulthard,1986, p. 131). A move may also be defined as ‘a functional unit, used for some identifiable rhetorical purposes’ (Connor and Mauranen, 1999). Nwogu gives a comprehensive definition of a move as follows:

By the term ‘move’ is meant a text segment made up of a bundle of linguistic features (lexical meanings, prepositional meanings, illocutionary forces, etc) which give the segment a uniform orientation and signal the content of discourse in it. Each ‘move’ is taken to embody a number of ‘Constituent Elements’ or submoves which combine to constitute information in the move.

(Nwogu, 1991)

The length of a move can be of a single sentence or more but is usually not more than a paragraph. The moves of a genre can be considered as the schematic structure of a genre. According to Martin, a schematic structure is ‘the positive contribution genre makes to a text; a way of getting from A to B in the way a given culture accomplishes whatever the genre in question is functioning to do in that culture’(Martin, 1985, p. 251)

In genre, a text is recognized as an example of a particular or specific genre if it can be divided or categorized into functional constituents. This functional constituents each has a role to fulfill which is related to the text as a whole. Each part of the text is made up of these constituents which are called ‘moves’ and in each of these constituents some of the moves are obligatory and some moves are optional. The moves are further noticeable as particular language features are found under each move.

#### **4.5.2 Step/Sub-move**

Moves or functional components are basic elements of a genre (Swales, 1990). In Swales' study of research articles (1990) a move can be further divided into steps or sub-moves. The steps or sub-moves support and guarantee the validity of the idea given in the move. A step has a schematic and a semantic function to support the central move so as to achieve its communicative goal. Some moves have no sub-moves or steps while others may be categorized into several steps or sub-moves.

#### **4.6 Linguistic Features**

The belief that legal language is fraught with archaic materials and multi clause sentences has led many to think of legal language as something which is beyond their grasp except for those who belong to this specialist community. The truth is that, legal language like any other languages is restricted by its form and content and therefore must conform to certain standard or practices within its boundaries.

Text of a specific nature normally reveals linguistic features that are peculiar to its genre. Depending upon the purpose they are supposed to serve, these texts have different words and structures in them. Since a move analysis is used in this study, it will be interesting to see what are the preferred linguistic features of each move and how these features are structured in each move.

Linguistic clues such as lexical and syntactic choices may be used to identify moves in discourse. Although identifying the move structure is an important and major part of genre analysis, the analysis of linguistic features is also equally important. Analysis of

linguistic features provides us with interesting and useful observations of the target genre and confirms our findings with supporting evidence of certain legal features without which move identification is only based on intuitions and impressions.

The linguistic features that will be discussed in the ILR are nouns, noun phrases, sentence length, complex prepositional phrases, binomial and multinomial expressions, use of tense and verbs and technical words or specialized vocabulary.

#### **4.7 Moves Analysis**

Bhatia's (1993) analysis of legal cases is used as a guide in the analysis of the moves of the ILR. In his analysis of legal cases, Bhatia's identifies a typical four-move structure in legal cases. They are:

- (1) Identifying the case
- (2) Establishing facts of the case
- (3) Arguing the case
- (4) Pronouncing judgment

##### **4.7.1 Identifying the case**

This move is normally found in all legal cases and can be considered as standard. It has a typically formulaic structure which is realized as follows:



**Roles v. Nathan**

**Court of Appeal (1963) ALL. E.R. 908**

The title, Roles v. Nathan, shows the two parties to the dispute written on either side of a small v. (versus) and is followed by the type of case, the court it was tried in and the year it was decided or reported.

**4.7.2 Establishing facts of the case**

The ability to identify the facts of the case that are considered legally material is important in this move. In legal case, the doctrine of precedent is usually followed, therefore cases must be decided the same way when the material facts are the same.

The following is taken from Bhatia (1993, p. 12-127).

**Roles v. Nathan**

**Court of Appeal. [1963] 2 ALL E.R. 908**

A building was centrally heated by a boiler in which coke was used as fuel, there being an old system to carry away the smoke and fumes, which included horizontal flue running from the boiler under the floor to a vertical flue went up a chimney. In the vertical flue there was a sleep-hole, about twelve inches in diameter and nine feet above the ground. It was sometimes difficult to get the boiler lighted up, the difficulty being to get a draught going along the flues. In December, 1958, the fire was lit and there was a lot of smoke. A boiler engineer was consulted; he said the flues needed cleaning. Two chimney sweeps were called in, and, ignoring the engineer's warning of the danger from fumes, one of them crawled into the horizontal flue. The fire was let out and the chimney sweeps cleaned out the flues, but when the fire was re-lit there was further trouble with fumes and smoke. Another expert was called in; he advised that the fire should be withdrawn and told everyone present to get out into the fresh air. The chimney sweeps said that they did not need any advice, but eventually were more or less dragged out by the expert. Later, the expert made his inspection and gave his advice, and, in the presence of the chimney sweeps and of C, the occupier's son-in-law (who was looking after the building, the occupier being ill),

advised that, *inter alia* the sweep-hole was to be sealed up before the boiler was lit again, and that the chimney sweeps, while doing the sealing, ought not to stay too long in the alcove. The following day, the fire was re-lit by the caretaker. By the evening, the chimney sweeps had not finished sealing up the sweep-hole, and C arranged with them to finish the work the next morning. The next morning, both the chimney sweeps were found dead by the sweep-hole. Apparently, they had returned the previous night to complete their work and had been overcome by carbon monoxide fumes.

*Held*, the warnings given to the chimney sweeps by the expert on behalf of the occupier of the danger which in fact killed them were enough to enable them to be reasonably safe, and therefore the occupier had discharged under s.2(4)(a) of the Occupiers' Liability Act 1957 the common duty of care that he owed to the chimney sweeps.

*Lord Denning, M.R.:* A warning does not absolve the occupier unless it is enough to enable the visitor to be reasonably safe. Apply s.(2)(4) to this case. I am quite clear that the warnings which were given to the chimney sweeps were enough to enable them to be reasonably safe. The sweeps would have been quite safe if they had heeded these warnings. They should not have come back that evening and attempted to seal up the sweep-hole while the fire was still alight. They ought to have waited till next morning and then they should have seen that the fire was out before they attempted to seal up the sweep-hole. In any cases they should not have stayed too long in the sweep-hole. In short, it was entirely their own fault. The judge held that it was contributory negligence. I would go further and say that, under the Act, the occupier has, by warnings, discharged his duty.

I would, therefore, be in favour of allowing this appeal and enter judgement for the defendants.

**Source:** Casebook on Torts, by D.M.M. Scott, London, Butterworths, 1969, p. 246-48

From the case above, it is important for the reader to be able to identify facts of the case which have legal significance. For example, the information on when the incident took place, where it happened, the size of the sweep-hole and that C being the occupier's son-in-law are legally immaterial compared to the facts that, "Two chimney sweeps were called in, and, ignoring the engineer's warning of the danger from fumes..." and "Another expert was called in; he advised that the fire should be withdrawn and told

everyone present to get out into the fresh air.....ought not to stay too long in the alcove”. The ability to distinguish legal materials from those that are legally immaterial will help reader to better appreciate and understand the argument of the judge which is found in the third move of the structure of legal case.

### **4.7.3 Arguing the case**

This move which according to Bhatia (1993) is the most complex can be considered the most important section of the legal case. It usually has several sub-moves depending on the length and nature of the case. The three sub-moves are:

- (a) Giving a history of the case
- (b) Presenting arguments
- (c) Deriving *ratio decidendi*

In the example given above, sub-move (a) is missing but we can find sub-move (b) which is presenting arguments. This sub-move is based on section 2(4) of the occupiers’ Liability Act 1957 on which the judge is going to argue and provide the basis of his judgment. The third sub-move, deriving *ratio-decidendi* which consists of a principle of law derived by the judge for application to subsequent cases, is not found in this examples.

### **4.7.4 Pronouncing judgment**

This move is short, formulaic and generally signaled by the term, ‘**Held**’. In the example above, the judgment is signaled by,

*Held*, the warnings given to the chimney sweeps by the expert on behalf of the occupier of the danger which in fact killed them were enough to enable them to be reasonably safe, and therefore the occupier had discharged under s.2(4)(a) of the Occupiers' Liability Act 1957 the common duty of care that he owed to the chimney sweeps.

The structure of legal cases will normally have all the four moves which are more or less obligatory. Depending upon the communicative purpose of the case, the moves and the sub-moves can be very detailed and sometimes very brief. Not all the sub-moves are realized in every case and especially in non-appeal cases, sub-move (a) is irrelevant. The position of the moves is also varied and sometimes we can find moves 3 and 4 changing positions depending upon the purpose they are supposed to serve.

Bhatia's four-move structure is used as a guide in analyzing the twenty cases of the ILR to determine if the same moves exist or if the genre of ILR consists of different moves from that found in legal cases.

#### **4.8 Specialist Informant**

Specialist informants in genre analysis are important as they can lend support or could confirm the findings, interpretations as well as any questions that may arise from the study conducted. Selinker (1979), Tarone et. al. (1981) and Bhatia (1982) have all enlisted the help of informants in their studies. This has proven to be useful in confirming results, findings and interpretations as the linguist usually will not have the specialist knowledge that the specialist informant have. In this study, a specialist informant from the professional community is consulted to assist in clarifying and

verifying technical terms, provide some information pertaining to description and discussion of cases as well as assist in validating moves and discourse organization of the target genre.

The specialist informant has twenty years of experience in industrial relations. Being in the field of management, he is aware of the procedures of dismissal cases and has been attending Industrial Court's hearings on behalf of the Company. The specialist also attends meetings with the Industrial Relations officer to conciliate the disputes if negotiation between employer and employee fails. In addition, the specialist informant has also conducted several domestic inquiries, a procedure to comply with before charging an employee with any charges of dismissal. The ILR is kept as a reference and guide and is constantly referred to before the management decides to take any action against the employee.

#### **4.9 The Original Judgment of a Dismissal case**

To understand the rhetorical structure of the ILR better, a sample of the original judgment of the Industrial Court on a dismissal case is given below.

### **INDUSTRIAL COURT OF MALAYSIA**

**Case No. 8/4 – 387/98**

**BETWEEN**

**YAOHAN (EAST MALAYSIA) SDN. BHD., SABAH**

**AND**

**TAY MENG KEAT**

**AWARD NO. 624 OF 1998**

**BEFORE** : MR. LIM HENG SENG  
- Chairman (Sitting alone)

**VENUE** : Mahkamah Tinggi,  
Kota Kinabalu, Sabah.

**DATE OF REFERENCE:** 17.7.1998.

**DATE OF HEARING** : 21.11.1998.

**REPRESENTATION** : Mr. Sugumar Balakrishnan of  
M/s Sugumar & Company,  
For the Claimant.

Company absent.

**REFERENCE:**

This is a reference by the Honourable Minister of Human Resources under Section 20(3) of the Industrial Relations Act 1967 for an award in respect of a dispute arising out of the dismissal of Tan Meng Keat (hereinafter referred to as “the Claimant”) by Yaohan (East Malaysia) Sdn. Bhd., Sabah (hereinafter referred to as “the Company”) on 16.5.1997.

## AWARD

The parties in this case are Yaohan (East Malaysia) Sdn. Bhd., Sabah (hereinafter referred to as “the Company”) and Tan Meng Keat (hereinafter referred to as “the Claimant”). The Claimant alleges that the said Company had dismissed him without just cause or excuse on 16.5.1997.

On 21.11.1998, the date set down for hearing of this case the Company was absent. The Court has previously been informed by letter dated 3.9.1998 that the Company is under receivership, Receivers and Managers having been appointed on 9.4.1998. The Receivers also informed the Court that they would not be present at the hearing. Learned Counsel for the Claimant applied for the case to be heard *ex parte* and the Court exercising its powers under Section 29 (d) of the Industrial Relations Act 1967 proceeded to hear the case *ex parte*.

The Claimant commenced his employment with the Company then known as Yaohan Best (KK) Sdn Bhd with effect from 21.10.1992 as Assistant Manager at Centre Point Sabah (Exhibit TMK-1). The Claimant’s appointment as Assistant Manager was duly confirmed by the Company on 21.4.1993 (Exhibit TMK-2). With effect from 1.1.1994 the Claimant was transferred to Yaohan (KK) Sdn Bhd as

Assistant Manager attached to the Company's Variety/Electrical Department in Kota Kinabalu (Exhibit TMK-3).

The Claimant was paid a monthly salary of RM3,500.00 at the commencement of his employment on 21.10.1992 and thereafter in receipt of annual increments. In addition thereto, the Claimant was also paid a monthly Head of Department allowance of RM400.00 with effect from 1.4.1994. As at 13.12.1996 the Claimant was in receipt of a total monthly gross salary of RM4,520.00 (Exhibits TMK-4 and TMK-5 respectively).

By letter dated 5.5.1997 the Company purported to transfer the Claimant to Yaohan Sandakan II as Assistant Branch-in-Chief with effect from 1.6.1997 (Exhibit TMK-6).

The Claimant states that the purported transfer constituted a wrongful repudiation of his contract of employment as it evinces the Company's intention not to be bound by the subsisting contract of employment under which he was employed on two principal grounds; firstly, that his transfer to serve the Company outside Kota Kinabalu was unauthorized by the terms of his contract and secondly, that there was a change in the Claimant's designation and duties which effectively tantamounts to a demotion.



### **Conclusion and Award**

Having heard the Claimant and examined the Claimant's letter of appointment and the Company's organization chart as well as considering the circumstances of the Claimant's appointment the Court is satisfied that the Company had committed breaches of the contract of employment subsisting between the parties in the manner alleged by the Claimant. The Court also finds that the breaches constituted a constructive dismissal of the Claimant. In the absence of the Company, no cause or excuse, much less a just one, for the said constructive dismissal is before the Court. The Court accordingly holds that the Claimant had been dismissed without just cause or excuse.

Reinstatement is clearly not an option in this case. The Court awards the Claimant compensation in lieu thereof in the sum of RM22,600 [RM4,520 x 5]. The Court also awards the Claimant backwages from the date of his constructive dismissal in the sum of RM72,320 [RM4,500 x 16]. The aggregate sum of RM94,920 awarded to the Claimant is to be paid by the Company to the Claimant within 30 days from the date of this Award.

HANDED DOWN AND DATED THIS 27<sup>TH</sup> DAY OF  
NOVEMBER 1998

(LIM HENG SENG)  
PENERUSI  
MAHKAMAH PERUSAHAAN

This original judgment of the Industrial Court is not available to the public. Thus, the ILR is the best alternative reports that can be used as a source of reference by professionals, management, public, teachers and students. It includes precise summaries of all award cases of the Industrial Courts.

#### **4.10 Moves Analysis of Industrial Law Reports**

Moves analysis has been adopted to determine the elements which make up the genre. In this study, Bhatia's moves analysis of legal cases is used as a guide to determine the rhetorical structure of the ILR. The dismissal cases reported in the Industrial Law Reports which is the journal being studied for this thesis has a similar structure to the original dismissal case of the Industrial Court awards but with a few slight changes. These changes are accommodated to standardize the format similar to other legal cases. The fact that not everyone can have access to the original copy of the proceedings has made ILR a source of reference and information to the discourse community. Thus, to fulfill its communicative purpose of providing a source of reference and information as well as a reference to previous cases and judgments, the ILR is structured similarly to the legal cases of its genre. The structure of the dismissal cases in ILR which will be dealt with thoroughly in the next chapter is as follows:

1. **FLEXICAN (MALAYSIA) SDN. BHD.**

**v.**

**MURUGAYIN DORAISAMY**

**INDUSTRIAL COURT, KUALA LUMPUR**

**CHAIRMAN: ABU HASHIM ABU BAKAR**

**[CASE NO. 7/4-410/96 (25 JULY 1996)]**

**15 MARCH, 28, 29 APRIL & 20 MAY 1997**

***DISMISSAL: Direct – Whether just cause of excuse – Charges not proved – Company equally blameworthy – Section 20(3) Industrial Relation Act 1967.***

The first move which is 'Identifying the case' provides the readers with the information regarding the parties to the dispute, the venue where the case is being heard, the Chairman/President presiding the case, case number and the dates of reference and hearing.

2. This will be followed by a brief note on the nature of the case, for example: *DISMISSAL: Direct – Whether just cause or excuse – charges not proved – Company equally blameworthy – Section 20 (3) Industrial Relations Act 1967.*

'A summary of the case' move with claims emanating from the claimant and contention from the company or employer follows. This summary with evidence and arguments from both parties will be presented and can run into a few paragraphs. It is

interesting to note that whereas in other legal cases we will be looking for the legal facts/materials of the case, this part is briefly summarized here. It is of my opinion that to suit the busy schedule of the professionals and the nature of their jobs, this part has been included.

The next section will be the judgment or decision of the Court, 'Pronouncing Judgment' and it is represented by the word, **Held**: At the bottom of the judgment, in a bracket, [ ], "[Unfair dismissal] or {Dismissal justified}" will be noted.

3. Reference to previous awards is mentioned here,

**Awards referred to:**

Cemantech Sdn. Bhd. And Lee Yew Lin [1987] ILR 275  
NTN Bearings Sdn. Bhd. And See Hock Ann [1986] ILR 362  
IE Project Sdn. Bhd. And Tan Lee Seng [1987] ILR 66  
Pembinaan Hashbudin Sdn. Bhd. And T. Sivagnanam [1987] ILR 247

We will notice that the rule of *ratio decidendi* is applied here.

4. Legislation. This refers to the section of the Industrial relations Act 1967 which in this case will be section 20 (3):

**Legislation referred to:**

Industrial Relations Act 1967, s. 20(3)

5. Resources. Reference is also made to other resources, for example:

**Other resources referred to:**

Dunston Ayadurai's Book, 2 edn. Pp. 238, 245.

6. Representation: Representatives for the claimant and the company follows before the details of the award is mentioned

*For the claimant – Shamini Manickam; M/s Lobo & Associates*

*For the company – Chelvakumar; M/s Lachman Lalchand & Associates*

7. The last format is the detail of the award which is signaled by the award number and the date the case is settled:

**AWARD NO. 223 OF 1997**

**[20 MAY 1997]**

In the award, the moves typical to the structure of the legal cases is found again. It begins with Step 1, which is Introduction to the case. Step 2 is Establishing facts of the case or the dispute. Step 3 Arguing of the case follows suit normally with sub-moves (b) and (c) and sometimes all the three sub-moves. Step 4 is the Pronouncing Judgment/Giving of Award by the Court. Again, the decision of the Court is not signaled by the word “Held” but is given at the end of the award according to the judgment of the Court.

In cases where amicable settlement has been reached, the structure of the case is brief with steps number 2 to number 5 not included. Consent award/Struck off cases normally have the first move which is the title of the case with the name of the parties to the dispute, the venue of the Court, the Chairman/President presiding the case, the case number and the dates of reference and hearing. This is followed by the agreement reached between the two disputing parties which is referred in brackets as, [Consent

award]. Steps 6 and 7 immediately follow suit but only with a brief summary of the agreement reached between the two parties and the Court's consent to the agreed settlement.

#### **4.10.1 Giving of Award**

This is the most important and detailed section of the dismissal cases. The history and details of the case, the dismissal charges, the evidence, the findings and the decisions are contained in the Award move. This move consists of a few new moves and the recycling of some earlier moves. The argument and the judgment handed down by the Court is contained here and any reader should be able to refer to this part of the case to understand the Award.

*The steps found in the Award section of the reports are:*

- (i) Introducing the claimant and his employment history/  
Introducing the case
- (ii) Stating the issue of the dispute/Allegation(s) of dismissal
  - Step 1 Claimant's version
  - Step 2 Company's version
- (iii) Providing the evidence to support or dispute the allegation
  - Step 1 Reference to previous cases and laws to support the chairman's argument
  - Step 2 Deriving ratio-decidenti
- (iv) Pronouncing Judgment/Giving of Award

All the steps mentioned here are typical of the earlier four-move structure for legal cases where ‘Introducing the claimant and/or his employment history’ is similar to Move 1 Identifying the case, ‘Stating the issue of the dispute/Allegation(s) of dismiss’ is Move 2 Establishing facts of the case, ‘Providing the evidence to support or dispute the allegation through reference to previous cases and laws and deriving ratio-decidenti’ is Move 3 Arguing the case and ‘Pronouncing Judgment/Giving of Award’ is similar to Move 4, Pronouncing Judgment.

The analysis of the linguistic features of the ILR will look at all the moves and steps described above with a focus on the Award section of the ILR.

#### **4.11 Conclusion**

This chapter has discussed the methodology used for the moves analysis and linguistic features of the data in the Industrial Law Reports. Structural organization and preferred linguistic features or choices are equally important in understanding and studying this particular genre. The methodology that has been outlined in this chapter has been applied in the analysis of data and the results are presented in chapters five and six respectively.