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Triple Test, Adrift: On the Ruling on the Definition of Industry

 **THE HINDU**

24 August 2026

POLITY**ECONOMY****GS2****GS3**

CURATED & WRITTEN BY

**Bharat Choudhary**

UPSC Educator & Content Creator

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 The Hindu

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GS2

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INTERVIEW ANGLE

"The triple test was written in 1978, when most secure employment was public. Far more workers are now outside that security. Does that make an expansive definition of industry more necessary, or does it make a 1978 test the wrong instrument for a changed labour market?"

Source: [Original editorial](#)

The Hindu

 Every fact web-verified against primary sources

THE LIFT LINE

A definition written in 1978 decided who counted as a worker for nearly fifty years. The question now is not whether it was perfect, but whether the thing it protected against has gone away. It has not.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

This is the rare editorial that is simultaneously a constitutional law question, a labour economics question and a statutory interpretation question. It also arrives with a fresh nine-judge judgment attached, which makes it high-probability material.

GS Paper 2: Judiciary, landmark judgments, statutory interpretation. **GS Paper 3:** Labour reforms, the new labour codes, and employment in the organised and unorganised sectors.

BACKGROUND AND CONTEXT

What the triple test was

In **Bangalore Water Supply and Sewerage Board v. A. Rajappa (1978)**, Justice V. R. Krishna Iyer laid down what became the **Triple Test** for what counts as an “industry” under **Section 2(j) of the Industrial Disputes Act, 1947**. Three conditions:

- 1 A systematic activity

- 2 Carried on with **employer-employee cooperation**
- 3 For the **production or distribution of goods and services** to satisfy human wants, other than those purely religious or spiritual

Two features made it expansive. **Profit motive was irrelevant** — what mattered was the nature of the activity, not whether anyone made money. And only “**sovereign functions**” stood outside it. The practical effect was that hospitals, universities, research institutions, charitable bodies and public utilities all fell within “industry”, and their employees within the protection of industrial law.

How it came back before the Court

A five-judge Bench in **State of U.P. v. Jai Bir Singh (2005)** raised doubts about the definition. A seven-judge Bench referred the question onward, and it reached a **nine-judge Bench led by Chief Justice Surya Kant**, which delivered judgment on **August 20, 2026**.

What the Bench actually did matters, and is widely misreported. It left the Triple Test standing for all pending disputes under the older Industrial Disputes Act, which has since been repealed. The change is prospective: going forward, the definition is governed by **Section 2(p) of the Industrial Relations Code**.

THE ANALYSIS

The editorial’s argument is about direction of travel, not about doctrine. Its claim is that the protective purpose the triple test served has grown more urgent, not less. In 1978 a large share of secure employment was public. After liberalisation and privatisation from 1991, far more workers sit in private employment without that security. If an expansive definition of industry was a **bulwark** then, it is more of one now.

The statutory point is the sharper half. The editorial argues that **Section 2(p) of the Industrial Relations Code does not move away from the Krishna Iyer formula** and reproduces much of its essence. If that reading is right, then treating the change of statute as a change of legislative intent is an interpretive error, not a legislative choice. Courts and tribunals should read continuity, because Parliament wrote continuity.

The counter-argument deserves stating. The triple test was criticised for decades as producing absurd extensions — sweeping in bodies whose function had nothing to do with industrial relations as ordinarily understood — and for leaving “sovereign functions” as an unstable residual category. A nine-judge Bench was convened because those criticisms had accumulated. Dismissing the ruling as simply anti-worker skips that history.

Where both can be true. A definition can be both over-inclusive and protective. The question the editorial poses is which error costs more, and it answers that in a labour market with rising informality, under-inclusion costs more than over-inclusion.

DATA AND INSTITUTIONS VAULT

PRELIMS-GRADE FACTS:

Bangalore Water Supply and Sewerage Board v. A. Rajappa (1978), Justice V. R. Krishna Iyer, laid down the Triple Test for “industry” under Section 2(j) of the Industrial Disputes Act, 1947.

The three conditions: systematic activity; employer-employee cooperation; production or distribution of goods and services for human wants other than purely religious or spiritual ones.

Profit motive is irrelevant under the test; only sovereign functions stood outside it.

State of U.P. v. Jai Bir Singh (2005): a five-judge Bench doubted the definition; a seven-judge Bench referred it onward; a nine-judge Bench led by CJI Surya Kant decided it on August 20, 2026.

The Bench left the Triple Test standing for all pending disputes under the repealed Industrial Disputes Act. The change operates prospectively.

Going forward the governing provision is Section 2(p) of the Industrial Relations Code.

The Industrial Relations Code, 2020 is one of the four labour codes, alongside the Code on Wages 2019, the Code on Social Security 2020, and the Occupational Safety, Health and Working Conditions Code 2020, consolidating 29 central labour laws.

*the nine-judge Bench did **not** abolish the triple test. It preserved it for **pending disputes under the old Act** and shifted future determinations to Section 2(p) of the Code. Writing that the Court “struck down” or “discarded” the triple test outright is wrong, and it is the most common error in coverage of this judgment.*

THE DEBATE

For the editorial’s position: informality has risen, not fallen; an expansive definition is the mechanism by which labour protection reaches beyond the classic factory; and Section 2(p) preserves the substance anyway, so narrowing it in practice would defeat Parliament’s own drafting.

Against: the triple test drew criticism for nearly five decades for sweeping in entities with no industrial character; “sovereign functions” was never satisfactorily defined; and a nine-judge reference exists precisely because a two-line test bore more weight than it could carry.

The reconciliation: the real protection for workers in a services and gig economy may not lie in stretching a 1978 definition at all, but in the **Code on Social Security’s** provisions for gig and platform workers — that is, in a category built for the problem rather than borrowed from another era.

HOW TO THINK ABOUT THIS

The transferable insight is that in labour law, **the definition clause is the policy**. Everything downstream — dispute resolution, **retrenchment** protection, union recognition — applies only to whoever falls inside “industry”, “workman” and “employer”. A change that looks technical in Section 2 is more consequential than a visible change in Section 25.

Whenever you meet a statute, find the definition clause first and ask who it excludes. That is usually where the argument is.

WAY FORWARD

- ❶ **Read Section 2(p) for continuity unless Parliament clearly signalled otherwise**, since the Code reproduces the substance of the test.
- ❷ **Define “sovereign functions” statutorily**, since its indeterminacy caused much of the litigation the nine-judge Bench had to resolve.
- ❸ **Resolve the pending disputes quickly**, since the Court preserved the old test precisely to avoid disturbing settled expectations, and delay defeats that purpose.
- ❹ **Address gig and platform work through the Social Security Code** rather than by stretching “industry”, which is a category built for a different labour market.

PYQ LINKAGE AND PRACTICE

Connects to standing themes on the **four labour codes**, **judicial review** and **statutory interpretation**, and **informality in Indian employment**. Practice question: *“In labour legislation, the definition clause is the policy. Discuss with reference to the definition of ‘industry’ in Indian law.”*

Source: Triple Test, Adrift: On the Ruling on the Definition of Industry — Ujiyari.com | Free UPSC & State PCS Editorial Analysis

● KEY ARGUMENTS AT A GLANCE

The Hindu argues that the Supreme Court should not have moved away from the Bangalore Water Supply triple test as the anchor for reading industry, because liberalisation and privatisation since 1991 have moved far more workers out of the security of public employment, making an expansive definition more necessary as a bulwark for the worker rather than less, and because Section 2(p) of the Industrial Relations Code reproduces much of the essence of Justice Krishna Iyer's formula in any case, so a change of statute should not be read as a change of legislative intent.



SUPPORTING

- The triple test asked only whether an activity was systematic, involved employer-employee cooperation and produced goods or services for human wants, deliberately excluding profit motive, which is what made it expansive enough to cover hospitals, universities and public utilities.
- Since 1991 a far higher proportion of the workforce has moved into private employment without the security that public employment carried, so the protective purpose the triple test served has grown rather than diminished.
- Because Section 2(p) of the Industrial Relations Code reproduces much of the essence of the triple test, courts and tribunals should not treat the shift from the Industrial Disputes Act to the Code as signalling a narrower legislative intent.



MAINS ANSWER FRAMEWORK

QUESTION

The definition of industry determines the reach of labour law. Examine the significance of the Bangalore Water Supply triple test and discuss the implications of the nine-judge Bench ruling in 2026 for workers under the Industrial Relations Code. (250 words)

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Bharat Choudhary

UPSC Educator & Content Creator

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