

Prevention, Prohibition and Redressal policy against Sexual harassment of women at work place

APPLICABILITY

This policy is applicable to all the employees of the Establishment deployed at the workplace who are either (a) on the rolls of the establishment or (b) engaged through the Contractor(s) having service agreement with the establishment or a co-worker, or a probationer, trainee or apprentice or called by any other such name as enumerated in clause (f) of Section 2 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as SHWW Act)

OBJECTIVE

This policy has been formulated keeping in view the provisions under the SHWW Act and its Rules. The said policy is to define the guidelines and the process to be followed in order to provide protection against sexual harassment of the women at workplace and for the prevention and redressal of complaints of sexual harassment in addition to the matters connected therewith or incidental thereto.

DEFINITIONS

- (a) Aggrieved woman – means in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent.
- (b) Employer – means the Head of the Organization, i.e. Company's Managing Director.
- (c) Workplace – includes all offices, branches located anywhere in India. It also includes any place visited by the employees arising out of or during the course of employment including transportation provided by the employer of the establishment for undertaking the journey.
- (d) Sexual Harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication), namely:
 - (i) Physical contact and advances; or
 - (ii) A demand or request for sexual favours; or
 - (iii) Making sexually coloured remarks; or
 - (iv) Showing pornography; or
 - (v) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

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- (e) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment.
- (f) Implied or explicit promise of preferential treatment in her employment; or
- (g) Implied or explicit threat of detrimental treatment in her employment; or
- (h) Implied or explicit threat about her present or future employment status; or
- (i) Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (j) Humiliating treatment likely to affect her health or safety.

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE (ICC)

The Managing Director shall constitute a committee to be known as 'Internal Complaints Committee' at Head Office and Regional Offices by an order in writing. Managing Director is authorized to (a) make changes to the constitution of the Committee as and when required and (b) take any other steps in connection with proper functioning of the Committee.

Every member of the ICC shall hold office for a period not exceeding three years, from the date of their nomination as may be specified by the Employer.

The constitution of the Committee, powers and conduct of the ICC would be strictly governed by the provisions of SHWW Act.

PROCEDURE FOR COMPLAINT

The complaint should be made by an aggrieved woman within a period of three months from the date of occurrence of incident and in case of a series of incidents, within a period of three months from the date of last incident. The complaint by an aggrieved woman employee shall be made to ICC in writing and be sent either by registered post with acknowledgement due or given in person to the ICC of the establishment or any officer authorized by ICC in writing.

The ICC may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the employee from filing a complaint within the said period. Where the employee is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir may make a complaint under this Section.

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It is, however, pertinent to state that where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by –

- (a) Her relative or friend; or
- (b) Her co-worker; or
- (c) An Officer of the National Commission for Woman or State Women's Commission; or
- (d) Any person who has the knowledge of the incident, with the written consent of the aggrieved woman

Where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by ---

- (a) Her relative or friend; or
- (b) A special educator; or
- (c) A qualified psychiatrist or psychologist; or
- (d) The guardian or authority under whose care she is receiving treatment or care; or
- (e) Any person who has the knowledge of the incident jointly with her relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care she is receiving treatment or care;

The ICC would go through the details of the complaint and evaluate if there is a prima facie case or not. While doing that, ICC will keep in mind that the Complainant Employee is not subjected to enquiry more than once. However, if the complaint complexity requires that the Complainant Employee is to be called for more than once for enquiry, then utmost sensitivity should be displayed and adequate precaution would be taken to ensure that there is no loss of dignity to the Complainant Employee.

The ICC will initiate a detailed enquiry as deemed fit.

The ICC may, before initiating an enquiry and at the request of the Complainant Employee, take steps to settle the matter between her and the Respondent Employee through conciliation, provided that no monetary settlement shall be made as a basis of conciliation. Where a settlement has been arrived during conciliation, the ICC shall record the settlement and forward to the employer to take action. However, if the terms arrived during conciliation have not been complied with by the Respondent Employee, the ICC shall proceed to make an enquiry into the complaint. The copies of the settlement as recorded during conciliation shall be provided to both the parties.

The ICC shall after completing the enquiry, submit its recommendations to the Managing Director with recommendations of the penalty to be imposed.

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In case no settlement is arrived at, the ICC shall, where the Respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the Service Rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed.

Where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

Notwithstanding anything contained in Section 509 of the Indian Penal Code (45 of 1860), the Court may, when the respondent is convicted of the offence, Order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of Section 15 pertaining to determination of compensation.

The submission of the recommendations by the ICC to the Managing Director shall be completed within a period of ninety days (90) from the date of receipt of the complaint by the ICC.

The HR Department will extend full cooperation in facilitating to conduct the proceedings by the ICC.

GUIDELINES FOR ICC:

To conduct the enquiry as per the Principles of natural justice and in a confidential manner

In cases where the ICC has recommended to the Managing Director for compensation to be made to the Complainant Employee, then the said amount shall be deducted from the salary of the Respondent Employee and paid to the Complainant Employee or her legal heir(s).

In case the Respondent Employee fails to pay the sum referred as above, the ICC may forward the Order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

Where the ICC arrives at a conclusion that the allegation against the Respondent Employee is malicious or the Complainant Employee has made the complaint knowing it to be false or the Complainant Employee has produced forged or misleading document, it may recommend to the Managing Director of the establishment to take action against the Complainant Employee as stipulated under Section 14 of the SHWW Act.

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Where the ICC arrives at a conclusion that during the enquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the Managing Director to take appropriate action.

DUTIES OF EMPLOYER AND OTHER PROVISIONS

- a) Provide a safe working environment at the work place which shall include safety from the persons, coming into contact at the work place.
- b) The Managing Director will direct HR Department to ensure to display at conspicuous places the guidelines as given in Section 19(b) of the SHWW Act.
- c) In case there is a complaint against any of the ICC members, Managing Director will have to reconstitute the ICC. In all such cases, the guidelines as stated in the above clauses would be inclusive of the time taken to reconstitute the said committee.
- d) Suitable assistance shall be rendered to the Complainant Employee if she so chooses to file a police complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force.

The Management will also initiate action under the Indian Penal Code or any other law for the time being in force, against a perpetrator, where the perpetrator is not an employee of the establishment and there is complaint of Sexual Harassment against the said perpetrator in the workplace where the harassment took place.

The ICC will submit an annual report to the Management outlined in the SHWW Act and it is the responsibility of the Management to ensure that the said annual report is also filed with the District Officer as per the format applicable.

The Management will direct and monitor the HR Department to create awareness amongst employees on sexual harassment in the following manner

- (i) Training cum Awareness session for employees (men and women)
- (ii) Training cum Awareness session for ICC members
- (iii) Training cum Awareness session for Human Resource teams and Senior Management

The Management will assist in ensuring the attendance of the Respondent Employee and witnesses before the ICC as the case may be.

The Management will monitor timely submission of reports. For this, the Management will conduct periodic update meetings with the ICC and HR Department to ensure that the said policy is being implemented in letter and spirit.

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APPEAL BY THE AGGREIVED PERSON

Any person aggrieved from the recommendations made by the ICC or non-implementation of such recommendations, may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal within ninety (90) days. The appeal will lie before the Appellate authority notified under clause (a) of Section 2 of the Industrial Employment (Standing Orders) Act, 1946.