

Department of Personnel and Training

Establishment (A-III)

Frequently Asked Questions(FAQs) and Answers
on
Sexual Harrassment of Women
at
Working Place

Sl. No.	Question	Answer
1.	Whether there is any Rule for prohibition of sexual harassment of working woman?	Yes. Rule 3-C of CCS (Conduct) Rules, 1964 prohibits sexual harassment of any woman at her workplace.
2.	What are the specific provisions of the Rule?	(1) No Government servant shall indulge in any act of sexual harassment of any woman at her work place. (2) Every Government servant who is incharge of a workplace shall take appropriate steps to prevent sexual harassment to any woman at such workplace. Explanation.- For the purpose of this Rule, 'sexual harassment' includes such unwelcomed sexually determined behaviour whether directly or otherwise, as – (a) physical contact and advances; (b) demand or request for sexual favours ; (c) sexually coloured remarks; (d) showing any pornography; or (e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.
3.	What are the guidelines and norms to be maintained to prevent and deal with cases of sexual harassment in working place?	The Hon'ble Supreme Court has laid down guidelines and norms in this matter in the case of Vishakha & Ors. Vs. State of Rajasthan & Ors. (Jt. 1997(7) SC 384) . These guidelines and norms to be observed to prevent sexual harassment of working woman have been circulated to all Ministries and Departments vide DOPT's O.M. No. 11013/10/1997-Estt.A dated 13.2.1998. A copy of these guidelines are available on the website on the Ministry at www.persmin.nic.in . As per above guidelines, there should be a Complaints Committee, a special Counsellor or other support service including maintenance of confidentiality. (DOPT's O.M. dated 21.7.2009 and 7.8.2009)
4.	Composition of Complaints Committee.	The Complaints Committee should be headed by a woman and not less than half of its Members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or

		<p>other body who is familiar with the issue of sexual harassment. (enclosure of DOPT's O.M. dated 13th Feb., 1998)</p>
5.	What will be the rank of the Chairperson of the Committee?	<p>Committee should be headed by an officer sufficiently higher in rank so as to lend credibility to the investigations. (DOPT's O.M. 11013/10/97-Estt.A dated 13.7.1999)</p>
6.	What about complaints against senior level officers?	<p>For inquiring into complaints made against officers of the level of Secretary, Addl Secretary and equivalent level of Govt. of India, a separate Complaints Committee has been set up by the Cabinet Secretariat with the approval of the Prime Minister. (DOPT's O.M. No. 11013/3/2009-Estt. A dated 2nd Feb., 2009, Cab. Secretariat's O.M. 501/28/1/2008-CA.V dated 26.9.2008)</p>
7.	Whether separate Complaints Committee should be set up for each complaint of sexual harassment case?	<p>No. It is necessary to have in place at all times an effective mechanism for dealing with cases of sexual harassment and to create awareness in this regard. There should be Standing Committee in each organisation for inquiring into any such complaints. The Complaints Committee must make an Annual Report to the Government Department concerned of the complaints and action taken by them. It would also be desirable of the Committees to meet once in a quarter even if there is no live case and review preparedness to fulfil all requirements of the Vishakha judgment in the Department / Ministry / Organisation concerned. (DOPT' s O.M. dated 21.7.2009, 7.8.2009 and 3rd August, 2009)</p>
8.	What is the status of the report of the Complaints Committee?	<p>In its Order dated 26.04.2004 in the Writ Petition No. 173-177/1999 in the case of Medha Kotwal Lele and Ors. Vs. UOI & Ors. the Hon'ble Supreme Court has directed that 'the Reports of the Complaints Committee shall be deemed an Inquiry Report under the CCS Rules. Thereafter, the Disciplinary Authority will act on the report in accordance with the Rules'. Sub-Rule (2) of Rule 14 of CCS (CCA) Rules, 1965 has accordingly been amended to provide that the Complaints Committee shall be deemed to be the Inquiry Authority for the purpose of these Rules by the Notification No. 11012/5/2001-Estt.A dated 01.07.2004 (GSR 225 dated 10th July, 2004). In view of the said amendment made to the CCS(CCA) Rules, the instructions contained in DOPT's O.M. dated 12th Dec., 2002 stands modified and the report of the Complaints Committee should be treated as an inquiry report and <u>not</u> a preliminary report.</p> <p>[DOP&T O.M. No.11013/3/2009-Estt. (A) Dated the 21st July, 2009]</p> <p>[DOPT OM dated 12.12.2002 as amended by O.M. dated 4.8. 2005]</p>

9.	Is there any Charge Sheet in such cases?	The Complaint forwarded by the DA to the Complaint Committee is treated as Charge Sheet. Specific Charge Sheet may also be made on the basis of complaints.
10.	Is the procedure prescribed in the CCS(CCA) Rule 14 followed in such enquiries?	The Complaint Committee is the competent authority in such cases to decide the procedure. However, since the report of the committee is to be treated as the enquiry report under the CCS(CCA) rules and the Disciplinary Authority is to take action on that report as per the same rules (as mentioned at point no 8 above) the procedure prescribed in rule 14 of the CCS(CCA) Rules are to be followed as far as practicable. [DOP&T O.M. No. 11013/3/2009-Estt. (A) dated the 3rd August, 2009]
11.	Whether copy of the report should be given to the Charged Officer / Complainant?	Yes, may be given.
12.	Whether any special leave or transfer is to be granted to the complainant if such request is made by her?	As per the existing Leave Rules, there is no special type of leaves that can be granted to the aggrieved woman. However, she can be granted any kind of regular leave that is admissible to her under the provisions of CCS (Leave) Rules, 1972 (as amended from time to time). The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer. (DOPT's O.M. No 11013/10/97-Estt.A dated 13 th Feb., 1998)
13.	Whether any amendment to the existing Rules / instructions is being made on this issue?	The existing Rules / Instructions / guidelines / norms / mechanisms have been formulated on the basis of direction of the Supreme Court in the case of Vishakha & Others vs. State of Rajasthan and Medha Kotwal Lele & Ors vs. UOI & Ors. as mentioned above. However, Ministry of Women & Child Development have introduced a Comprehensive Bill in the Parliament on the issue of sexual harassment at working place – Government, Semi-Government, Private Sector as well as unorganized sectors. After passing of the Bill in the Parliament detailed Rules vis-a-vis that Act may be formulated by the Government.

This has the approval of Joint Secretary (Establishment).


(U.S. Chattopadhyay)

Under Secretary to the Government of India

Director (NIC), DOPT with the request to upload the same on the website of this Ministry.