

MOST IMMEDIATE

F.No.O-21030/15/2010-Coord.

Government of India
Ministry of Finance
Department of Revenue

Room No.267-D, North Block
New Delhi, the 28th May, 2013

OFFICE MEMORANDUM

Subject: - Guidelines to be followed in prevention of sexual harassment of women in the work place.

The undersigned is directed to draw your attention to Department of Personnel and Training O.Ms No. 11013/3/2009-Estt (A), dated 21st July, 2009 and O.M. No. 11013/2009-Estt (A) dated 7th August, 2009 and Cabinet Secretary's D.O. letter No. 1/109/7/2009-TS, dated 7th August, 2009 (copies enclosed), on the subject mentioned above and to say that as per Section 4 (1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 "every employer of a workplace shall by an order, in writing constitute a committee to be known as **"Internal Complaints Committee"**. Under Section 26 (1) of the Act it has been mandated that where an employer fails to constitute an Internal Committee under Sub Section (1) of Section 4;...he shall be punishable with a fine which may extend to fifty thousand rupees.

2. In this context, it is requested that guidelines in the matter may kindly be issued to all concerned under your administrative control immediately to constitute Internal Complaints Committee as per the existing rules and guidelines so as to ensure compliance of the instructions by all concerned in case no such committee exists in their office/division. Action taken may be communicated to this office.

Encl : As above.


(Niranjana choudhary)

Under Secretary to the Govt. of India

Tele: 23095484

1. Chairperson, CBEC
2. Chairperson, CBDT
3. Director General, CEIB.
4. Director (Enforcement)
5. Director (FIU-IND)
6. Director (NC) - with respect of GOAF & CBN
7. Director (HQrs.)
8. Pay & Accounts Office, Department of Revenue, Church Road, New Delhi.
9. Shri Nagesh Shastri, Sr. Tech, Director-NIC, Department of Revenue for uploading on the Website of Department
10. Guard file (2 copies)

No.11013/3/2009-Estt. (A)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

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North Block,
New Delhi,
Dated the 21st July, 2009

OFFICE MEMORANDUM

Subject : CCS (Conduct) Rules, 1964 – Guidelines regarding prevention of sexual harassment of working women in the workplace.

The undersigned is directed to refer to Department of Personnel and Training's O.M. No. 11013/10/97-Estt. (A) dated 13.02.1998 and 13.07.1999, O.M. No. 11013/11/2001-Estt. (A) dated 12.12.2002 and 04.08.2005 and O.M. No. 11013/3/2009-Estt. (A) dated 02.02.2009 on the abovementioned subject and to say that it is necessary to have in place at all times an effective Complaint Mechanism for dealing with cases of sexual harassment of working women and to create awareness in this regard, particularly amongst working women. The salient features of the Complaint Mechanism and inquiry procedure are as follows :-

(i) Rule 3 C of the CCS (Conduct) Rules, 1964 provides that no Government servant shall indulge in any act of sexual harassment of any women at her work place. Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place. "Sexual harassment" includes such unwelcome 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.

(ii) Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

(iii) The complaint mechanism should be adequate to provide, where necessary, a Complaints Committee, a special councillor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its member 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 other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

(iv) The Committee constituted for redressal of the complaints by the victims of sexual harassment should be headed by an officer sufficiently higher in rank so as to lend credibility to the investigations.

(v) The Complaints Committee established in each Ministry or Department or Office for inquiring into complaints of sexual harassment shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority and that the Complaints Committee shall hold, if no separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into such complaints, the inquiry, as far as practicable in accordance with the procedure laid down in the said rules. [In 2004 a proviso was added to rule 14(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (copy enclosed) to this effect].

(vi) The Complaints Committee in terms of Cabinet Secretariat's Order No. 1 dated 26.09.2008 will inquire into complaints made against officers of the level of Secretary and Additional Secretary and equivalent level in the Government of India in the Ministries/Departments and Organisations directly under the control of the Central Government (other than the Central PSUs). The existing Complaints Committee established in each Ministry or Department or Office will, inquire into complaints of sexual harassment against only those Government servants who are not covered by the Cabinet Secretariat's Order No. 1 dated 26.09.2008.

(vii) It may be ensured that the Complaints Committee shall at all times be in existence and changes in its composition, whenever necessary, should be made promptly and adequately publicized. The composition of the Complaints Committee be also posted on the websites of the concerned Ministries/Departments/Offices concerned.

3. All Ministries/Departments are requested to bring the foregoing to the notice of all concerned.

(C.B. PALIWAL)

Joint Secretary to the Government of India

Encl. : as above

All Ministries/Departments of the Government of India.

Copy forwarded to

1. Comptroller and Auditor General of India, New Delhi
2. Lok Sabha Secretariat/Rajya Sabha Secretariat/Ministry of Parliamentary Affairs.
3. Union Public Service Commission, New Delhi.
4. President's Secretariat/Vice-President's Secretariat/ Prime Minister's Office.
5. Election Commission of India, New Delhi.
6. Central Vigilance Commission, New Delhi.
7. Staff Selection Commission, New Delhi.
8. Central Bureau of Investigation, New Delhi.
9. All Attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions.
10. All Officers and Sections in the Ministry of Personnel, PG and Pensions.
11. NIC (DOPT) with the request to place this O.M. in the Department's website (www.persmin.nic.in).

(200 spare copies).

PROVISIONS OF RULE 14(2) OF THE CENTRAL CIVIL SERVICES (CLASSIFICATION,
CONTROL & APPEAL) RULES, 1965

14(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the complaints Committee established in each ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed

No.11013/3/2009-Estt. (A)

Government of India

Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

North Block,
New Delhi,

Dated the 7th August, 2009

OFFICE MEMORANDUM

Subject : CCS (Conduct) Rules, 1964 – Guidelines regarding prevention of sexual harassment of working women in the workplace.

In continuation of the Department of Personnel and Training's O.M. of even number dated the 21st July, 2009 on the abovementioned subject, the undersigned is directed to say that the following may be substituted for the existing instructions in para 1 (v) thereof :-

"(v) The Complaints Committee established in each Ministry or Department or Office for inquiring into complaints of sexual harassment shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into such complaints, the inquiry, as far as practicable in accordance with the procedure laid down in the Central Civil Services (Classification, Control and Appeal) Rules, 1965 [In 2004 a proviso was added to rule 14(2) of the said rules. (copy enclosed) to this effect]."

2. The number of the last para of the O.M. under reference may be read as (2) in place of (3)

(P.PRABHAKARAN)
Deputy Secretary to the Government of India

All Ministries/Departments of the Government of India.

Copy forwarded to

- 2 -

1. Comptroller and Auditor General of India, New Delhi;
2. Lok Sabha Secretariat/Rajya Sabha Secretariat/Ministry of Parliamentary Affairs.
3. Union Public Service Commission, New Delhi.
4. President's Secretariat/Vice-President's Secretariat/ Prime Minister's Office.
5. Election Commission of India, New Delhi.
6. Central Vigilance Commission, New Delhi.
7. Staff Selection Commission, New Delhi.
8. Central Bureau of Investigation, New Delhi.
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(200 spare copies).

PROVISIONS OF Rule 14 (2) of the CENTRAL CIVIL SERVICES
(CLASSIFICATION, CONTROL AND APPEAL) RULES, 1965

14 (2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the complaints Committee established in each ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the complaints committee for holding the inquiry into the complaints of sexual harassments, the inquiry as far as practicable in accordance with the procedure laid down in these rules.



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मंत्रिमंडल सचिव
CABINET SECRETARY
NEW DELHI

M. CHANDRASEKHAR

D.O No.1/109/7/2009-TS
7th August, 2009.

Dear Secretary,

Following the judgment of the Supreme Court in the case of Visakha & Ors Vs. State of Rajasthan & Ors., the National Commission for Women has formulated and circulated detailed Guidelines on 'Sexual Harassment at Work Place'. The Guidelines are available on their website www.ncw.nic.in. The above Guidelines also factor in the law laid down by the Supreme Court in their judgment in case cited as Apparel Export Promotion Council Vs A.K. Chopra.

2. Following the subsequent judgment of the Supreme Court of 26th April, 2004 in the case of Medha Kotwal Lele Vs UOI it has been laid down that the report of the Complaints Committee as envisaged in the judgment in Visakha case would be deemed to be an inquiry report under the relevant conduct rules, and the disciplinary authority would be required to act on the report in accordance with the Rules. Following this judgment, the CCS (CC&A) Rules, 1962 have been amended w.e.f. 10th July, 2004 to provide the legal basis for functioning of the Committee.

3. Recently by Cabinet Secretariat Order No. 501/28/1/2008-C.A.V dated 26th September, 2008, a Complaints Committee which consists, inter-alia, of retired officers at very senior levels has been constituted to enquire into complaints of sexual harassment made against officers of the level of Secretary and Additional Secretary to the Government of India.

4. While institutional mechanisms have been put in place following the series of judgments of the Apex Court mentioned above, it is necessary to ensure that there is no delay in dealing with complaints of sexual harassment made by women in the work place, and whenever such complaints are made there is no occasion for either an attitude of disinterest or indifference. Any delay, or dismissive attitude with regard to complaints will serve to nullify the letter and spirit not only of Government instructions, but also the guidelines laid down by the Apex Court and would itself invite action.

5. I shall be grateful if the above issues are kept in mind, with a view to reinforcing the administrative machinery that might already be in place, so that such complaints receive prompt and immediate attention. I would suggest that regular quarterly meetings of the Complaints Committee constituted in your Ministry/ Department may be held even if there are no complaints, and the state of preparedness to deal with such complaints reviewed as also measures to be taken to make all officers fully aware of their responsibilities in this regard.

With best wishes,

Yours sincerely,

(Signature)

(K.M. Chandrasekhar)

Shri P.V. Bhide,
Secretary,
Department of Revenue,
New Delhi

13/8/2009
10/8/09 SC G.O.
10/8/09
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