

CHAPTER II **PERSONNEL POLICIES**

(f) Conduct, Discipline & Appeal Rules

15.

DPE/Guidelines/II(f)/15

Directive on amendment in the Conduct, Discipline and Appeal Rules and Standard Orders pertaining to the Supreme Court judgement in the case of Vishaka and others Vs. State of Rajasthan and Others.

The undersigned is directed to say that in the case of Vishaka and Others Vs. State of Rajasthan and Others (JT 1997(7) SC 384), the Hon'ble Supreme Court has laid down guidelines and norms to be observed to prevent sexual harassment of working women.

2. It has been laid down in the above mentioned judgement that it is the duty of the employer or other responsible persons in working places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required. For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:-

- a) physical contact and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

3. Any act of sexual harassment of women employees is definitely unbecoming of a PSU employee and amounts to a misconduct. Appropriate disciplinary action should be initiated in such cases against the delinquent PSU employee in accordance with the rules.

4. Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the concerned authorities shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

5. In particular, it should be ensured that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

6. Complaint Mechanism:- 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 every organisation for redressal of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints. Wherever such machineries for redressal of grievance already exist, they may be made more effective and in particular women officers should preferably handle such complaints.

7. Awareness:- Awareness of the right of female employees in this regard should be created in particular by prominently notifying the guidelines (copy enclosed) in a suitable manner.

8. All the Ministries/Departments are requested to direct the public sector undertakings under their administrative control to make necessary amendments in the CDA Rules of such PSUs on the line of the guidelines laid down by the Supreme Court. For guidance, a copy of the notification issued by DOPT amending the CCS (Conduct) Rules, 1964 is enclosed.

(DPE O.M.No. DPE/15(4)/98(GL-004)/GM dated 29th May, 1998)

ENCLOSURES

Copy of DOPT's O.M.No.11013/10/97-Estt.(A) dated 13th February, 1998 regarding CCS (Conduct) Rules, 1964—Supreme court Judgement in the case of Vishaka Vs. State of Rajasthan regarding sexual harassment of working women.

The undersigned is directed to say that in the case of Vishaka and Others Vs. State of Rajasthan and Others (JT 1997 (7) SC 384), the Hon'ble Supreme Court has laid down guidelines and norms to be observed to prevent sexual harassment of working women.

2. It has been laid down in the judgement above-mentioned that it is the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement

or prosecution of acts of sexual harassment by taking all steps required. For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a) physical contact and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature

3. Attention in this connection is invited to Rule 3 (i) (iii) of the CCS (Conduct) Rules, 1964, which provides that every Government servant shall at all times do nothing which is unbecoming of a Government servant. Any act of sexual harassment of women employees is definitely unbecoming of a Government servant and amounts to a misconduct. Appropriate disciplinary action should be initiated in such cases against the delinquent Government servant in accordance with the rules.

4. Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the concerned authorities shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

5. In particular, it should be ensured that victim or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

6. Complaint Mechanism:— 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 every organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints. Wherever such machineries for redressal of grievance already exist, they may be made more effective and in particular women officers should preferably handle such complaints.

7. Awareness:— Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (copy enclosed) in a suitable manner.

8. A specific provision is, however, being made in the CCS (Conduct) Rules, 1964, prohibiting sexual harassment of women by Government servants, in compliance of the Judgement of the Hon'ble Supreme Court.

9. The Ministries/Departments are requested to bring these instructions to the notice of all concerned for strict compliance.

10. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these instructions issue after consultation with the Comptroller and Auditor General of India.

Copy of DoPT's Notification No.11013/10/97-Estt(A) dated 13.2.1998

G.S.R..... In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Conduct) Rules, 1964, namely:-

1. (1) These rules may be called the Central Civil Services (Conduct) Amendment Rules, 1998.

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the Central Civil Services (Conduct) Rules, 1964, after rule 3B, the following rule shall be inserted, namely :-

“3C – Prohibition of sexual harassment of working women

(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 in-charge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.

Explanation—For the purpose of this rule, “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”.

NOTE : The Principal Rules were published in the Gazette of India vide Ministry of Home Affairs Notification No.15/4/63-Estt.(A) dated 30th November, 1964, [S.O. No.4177 dated the 12th December 1964, Part II, Section 3, Sub-section (ii)] and subsequently amended vide :

S.No.	Notification No.	Date	Published in the Gazette of India Part II Section 3 Sub Section (ii)	
			S.O. No.	Date
1.	25/23/68-Estt.(A)	03.02.70	482	14.02.70
2.	25/11/72-Estt.(A)	24.10.72	3643	04.11.72
3.	25/57/64-Estt.(A)	05.01.73	83	13.01.73
4.	11013/12/75-Estt.(A)	13.02.76	846	28.02.76
5.	25/19/74-Estt. (A)	30.06.76	2563	17.07.76
6.	11013/19/75-Estt.(A)	06.07.76	2691	24.07.76
7.	11013/06/75-Estt.(A)	24.11.76	4663	11.12.76
8.	11013/4/76-Estt.(A)	24.08.77	2859	17.09.77
9.	11013/03/78-Estt.(A)	22.09.78	2859	30.09.78
10.	11013/12/78-Estt.(A)	22.12.78	3	06.01.80
11.	11013/3/80-Estt.(A)	24.04.88	1270	10.06.80
12.	11013/21/85-Estt.(A)	03.10.85	4812	19.10.85
13.	11013/6/85-Estt.(A)	21.02.86	935	08.03.86
14.	11013/11/85-Estt.(A)	07.03.86	1124	22.03.86
15.	11013/5/86-Estt.(A)	04.09.86	3159	20.09.86

16.	11013/16/85-Estt.(A)	10.09.86	3280	27.09.86
17.	11013/1/87-Estt.(A)	27.07.87	1965	08.08.87
18.	11013/19/87-Estt.(A)	19.04.88	1454	14.05.88
19.	11013/18/87-Estt.(A)	18.09.90	2582	06.10.90
20.	11013/20/91-Estt.(A)	09.12.92	3132	26.12.92
21.	11013/4/93-Estt.(A)	12.07.95	GSR 355	29.07.95
22.	11013/4/93-Estt.(A)	16.08.96	GSR 367	31.08.96

Copy of Guidelines and norms laid down by the Hon'ble Supreme Court in Vishaka and Others Vs. State of Rajasthan and Others (JT 1997 (7) SC 384)

HAVING REGARD to the definition of 'human rights' in Section 2 (d) of the Protection of Human Rights Act, 1993, TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time,

It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

1. Duty of the Employer or other responsible persons in work places and other institutions: It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts, of sexual harassment by taking all steps required.

2. Definition: For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a) Physical contact and advances;
- b) A demand or request for sexual favours;
- c) Sexually coloured remarks;
- d) Showing pornography;
- e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

Where any of these acts is committed in circumstances where-under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive Steps: All employers or persons in charge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

- (a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.

(b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender

(c) As regards private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

(d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Criminal Proceedings: Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary Action: Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint Mechanism: 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 organisation for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. Complaints Committee: The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor 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.

8. Worker's Initiative: Employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

9. Awareness: Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. Third Party Harassment: Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

12. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.